

**UNIT 13**  
**AGREEMENT**

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## **UNIT 13 AGREEMENT**

This Agreement is made by and between the Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, hereinafter called the Union, and the State of Hawaii, the City and County of Honolulu, the County of Hawaii, the County of Maui, and the County of Kauai, hereinafter called the Employer.

### **ARTICLE 1 - RECOGNITION**

A. The Employer recognizes the Union as the exclusive bargaining agent of the unit certified by the Hawaii Labor Relations Board consisting of professional and scientific Employees, other than registered professional nurses employed by the State of Hawaii, the City and County of Honolulu, the County of Hawaii, the County of Maui, and the County of Kauai.

B. The term "Employee" as used in this Agreement refers to Employees in the bargaining unit.

C. Whenever in this Agreement the masculine gender is used, it shall be deemed to include the feminine gender.

### **ARTICLE 2 - CONFLICT**

If there is any conflict between the provisions of this Agreement and any of the rules and regulations of any civil service or other personnel regulations applicable to Employees, or any contracts between the Employer and Employees, the terms of this Agreement shall prevail, provided that this Article shall not apply to personal services (individual) contracts.

### **ARTICLE 3 - MAINTENANCE OF RIGHTS AND BENEFITS**

Except as modified herein, Employees shall retain all rights and benefits pertaining to their conditions of employment as contained in the departmental and civil service rules and regulations and statutes at the time of execution of this Agreement, but excluding matters which are not negotiable under Chapter 89, HRS.

## **ARTICLE 4 - PERSONNEL POLICY CHANGES**

A. All matters affecting Employee relations, including those that are, or may be, the subject of a regulation promulgated by the Employer or any Personnel Director, are subject to consultation with the Union. The Employer shall consult with the Union prior to effecting changes in any major policy affecting Employee relations.

B. No changes in wages, hours or other conditions of work contained herein may be made except by mutual consent.

## **ARTICLE 5 - RIGHTS OF THE EMPLOYER**

The Employer reserves and retains, solely and exclusively, all management rights, powers, and authority, including the right of management to manage, control, and direct its work forces and operations except those as may be modified under this Agreement.

## **ARTICLE 6 - UNION SECURITY**

A. The Employer shall maintain a list of Union members in this bargaining unit who have payroll assignment forms on file with the Employer. This list will be made available to the Union by request and contain information listing the names of Union members, unit Employees, and total Union deductions made without cost to the Union on a form supplied by the Employer.

B. The Employer shall also maintain a list of Employees from whom service fees are deducted from wages to defray the cost of services rendered by the Union in the negotiation and administration of this Agreement; such list will be made available to the Union without cost and on a form supplied by the Employer.

C. The Employer shall maintain and update the above listings and notify the Union of any changes.

D. Union dues, initiation fees, service fees, and other Employer authorized deductions shall be collected twice a month and transmitted to the Union not later than the 15th day of the following month by check drawn to the order of the Union. Upon the issue of such check and transmission of same to the Union, all responsibility on the part of the Employer shall cease with respect to any amount so deducted. The Employer shall not be bound in any manner to see to the application of the proceeds of any such check, nor to investigate the authority of any designated officer of said Union to sign any request, to accept any such check, or to collect the same. The Union hereby undertakes to indemnify and hold blameless the Employer from any claim that may be made upon it for or on account of any such deduction from the wages of any Employee.

E. Scattergrams reflecting Employee distribution on the salary schedule as of July 15 of each year shall be provided to the Union by each jurisdiction.

## **ARTICLE 7 - UNION REPRESENTATION RIGHTS**

A. The Union may call four (4) meetings per year of all Employees in each department during working hours for informational and educational purposes, including the interpretation, application, and administration of this Agreement. The year for this purpose shall begin with the effective date of this Agreement. The Employees may be divided into groups of convenient size and one meeting held for each group so that all Employees will have an opportunity to attend each of said four (4) meetings. The meetings shall last no longer than two (2) hours. The Union may use the Employer's conference rooms and similar building facilities for such meetings. The Union will notify the Employer in writing of the time and place of the meetings at least ten (10) days before they are held, provided, however, that the hours during which the meetings are held shall be mutually acceptable. In addition to the foregoing meetings, additional meetings may be held by agreement of the Employer and the Union.

B. The Union shall be provided adequate space on bulletin boards for posting of usual and customary Union notices.

C. Full-time Union representatives shall be permitted to visit and confer with Employees at their work sites regarding complaints and grievances and to assure that the Agreement is being properly administered. The Union representative will notify the appropriate supervisor when the Employee arrives at the work site. While on the Employer's premises or work site, the representative will not interfere with normal operations.

D. The Union shall appoint a sufficient number of stewards from among the Employees whose function shall be to investigate complaints, handle grievances, and assure that the Agreement is being properly administered in their work areas, during working hours without loss of pay or benefits. The Employer assures privacy to the steward and the Employee while discussing the Employee's grievance.

E. Representatives of the Union shall be permitted to attend orientation meetings held by the Employer during working hours for new Employees, and shall be allowed up to thirty (30) minutes to address the Employees at the conclusion of the meeting.

F. The Union shall provide the Employer with a list of duly certified officers, representatives, and stewards and maintain its currency.

G. The Executive Director or the Executive Director's designee shall be entitled to participate during the biennial review of the Compensation Plan by the Conference of Personnel Directors, but may not vote. The Employee shall receive copies of the policies and standards, rules and regulations, identification and pricing of

benchmark classes, including proposed amendments therefor and notices of meetings, agenda, and requests for repricing.

H. Employees may be permitted to use the Employer's conference rooms or other similar facilities for meetings during non-working hours.

## **ARTICLE 8 - DISCIPLINE**

A. Regular Employees shall not be disciplined without proper cause. Grievances regarding these matters shall be handled in accordance with the provisions of Article 11, Grievance Procedure.

B. Exempt Employees who meet all of the conditions listed below shall not be disciplined without proper cause. The conditions are:

1. Employee is in an exempt position in an ongoing program and whose appointment does not have a termination date.

2. Employee occupies a position which is within the authorized position ceiling as provided in the State Appropriations Act.

3. Employee has at least twelve (12) continuous months of service in the Employee's present position.

Whenever grievances alleging violations of Article 8, Discipline, are filed by any exempt Employee who meets all of the three conditions stated above, such grievance shall be processed in accordance with the provisions of Article 11, Grievance Procedure.

Exempt Employees in the Hawaii Housing Authority and the Hawaii Public Broadcasting Authority shall not be disciplined without proper cause, notwithstanding that such Employees are appointed for a definite term, provided that they meet conditions 2 and 3 listed above.

Paragraph B does not apply to Employees in programs which provide temporary public service employment, such as SCET and CETA.

C. Disciplinary action taken against any Employee in writing shall be considered confidential.

D. When an Employee is orally reprimanded, it shall be done privately.

## **ARTICLE 9 - REDUCTION-IN-FORCE**

A. All personnel actions under this Article shall be restricted to members and positions of this bargaining unit and shall be confined to the governmental jurisdiction in which the reduction-in-force occurs.

B. When there is an impending reduction-in-force because of lack of work or funds, the appointing authority shall inform the respective Central Personnel Agency and the Union, in writing, as soon as possible but in any case at least ninety (90) calendar days before the impending reduction-in-force will take place.

C. The Employer shall consult with the Union on the Employer's plans for the reduction-in-force.

D. Waiver of Bumping Rights. The Employee affected by the reduction-in-force may waive the Employee's bumping rights, in writing to the Central Personnel Agency, thereby limiting the Employee's placement to vacant positions.

E. Retention Points for Regular Employees. In the event of a reduction-in-force, the displacement or termination of services of an Employee shall be based on the Employee's total continuous creditable service within the Employee's applicable governmental jurisdiction including the combined service time of classes of Employees whose functions are transferred from one jurisdiction to another through action of the legislature. Creditable service shall be restored to Employees who are rehired from the recall list established in paragraph "I" below. Retention points shall be computed on the basis of one (1) point for each full month of employment in the applicable jurisdiction, including service in another jurisdiction prior to any transfer of the Employee's position to the applicable jurisdiction through legislative action. A fraction of a month of service shall be used to break "ties." Retention points shall be computed up to the day on which the work or funds terminate.

Creditable service for purposes of computing retention points shall include all authorized non-disciplinary leaves of absence, however, suspensions (including unauthorized leave charged in lieu of suspension) shall not constitute a break in continuous service.

F. Conditions for Placement of Regular Employees.

1. The Employee must meet the minimum qualification requirements of the class of the position in which the Employee is to be placed.

2. The Employee is a regular Employee of the jurisdiction.

3. The Employee shall have priority for placement in the vacant position to which the Employee is referred under the provisions of this Article.

4. The Employee shall be referred for placement in a position on the basis of the Employee's indication of the geographic location(s) (island and district) where the Employee is willing to be placed; the minimum pay range, not higher than that of the Employee's present position, that the Employee will accept; and the type of appointment, regular and/or non-regular, that the Employee will accept. The appointing authority shall provide the Union with a listing of all vacant positions which meet the conditions under which the Employee has indicated the Employee would be willing to accept.

5. The Employee shall be entitled to only one referral for placement in a position which is in accordance with the terms the Employee specified as provided for in (4) above. If the Employee should fail to accept the offer of employment in the position, the Employee's services shall be terminated on the abolishment date of the position or termination of funds or work, or the date of the Employee's displacement, and the Employee's name shall be placed on the recall list.

G. Bumping Procedures for Regular Employees within the Employing Department. If the Employee cannot be placed in a vacant position, a reduction-in-force will be effectuated. In the order of utilization outlined below, the appointing authority shall provide the Union with a list of all positions and their classification, the incumbents' names, and the incumbents' retention points. Subject to the conditions set forth in (F) above, the following order shall be observed in bumping and layoff of Employees:

1. Non-regular Employee who occupies a permanent position in the same class when there is more than one such Employee, in the following order: first, an Employee serving an emergency appointment; second temporary appointment outside the list; third, provisional appointment Employee; fourth, a limited-term, appointment Employee; and fifth, a probational appointment Employee.

2. Regular Employee who occupies a position in the same class and has the least retention points.

3. Non-regular Employee who occupies a permanent position in a related class of the same pay range. When there is more than one (1) such Employee, the order of bumping will be as provided in (1) above.

4. Regular Employee who occupies a position in a related class of the same pay range and has the least retention points.

5. Non-regular Employee who occupies a permanent position in a class of a lower pay range in the same series. Where there is more than one (1) such Employee, the order of bumping will be as provided in (1) above.

6. Regular Employee who occupies a position in a class of a lower pay range in the same series and has the least retention points.

7. Non-regular Employee who occupies a permanent position in a class of a lower pay range in a related series. Where there is more than one (1) such Employee, the order of bumping will be as provided in (1) above.

8. Regular Employee who occupies a position in a class of a lower pay range in a related series and has the least retention points.

When the Employee cannot be placed in another permanent position, the same order of bumping may be repeated for temporary positions prior to layoff. In the event that a regular Civil Service Employee has less than twenty-four (24) retention points and cannot be placed in the Employee's department, the appointing authority shall notify the affected Employee, the Union and the Central Personnel Agency in writing at least sixty (60) calendar days prior to the layoff. The appointing authority shall also notify the Central Personnel Agency in writing that a jurisdiction-wide reduction-in-force needs to be effectuated provided that the Employee has at least twenty-four (24) retention points and is a regular Civil Service Employee.

H. Jurisdiction-wide Reduction-in-Force for Regular Employees. A jurisdiction-wide reduction-in-force action will be effectuated only for a regular Civil Service Employee who has not been referred for placement or cannot be placed in an appropriate position within the employing department and if the Employee has regular or permanent Civil Service status with the jurisdiction with at least twenty-four (24) retention points. A regular Employee with less than twenty-four (24) retention points will have retention rights only within the department in which the Employee is employed. The Employee affected by reduction-in-force shall be referred for placement in another position on the basis of Section F, Conditions for Placement of Regular Employees. In a jurisdiction-wide reduction-in-force action, the order used shall be in accordance with Section G, Bumping Procedures for Regular Employees within the Employing Department. The Employer shall furnish the Union with information similar to the information requirements of Sections F and G. When a regular Employee cannot be placed in another position, the Central Personnel Agency shall notify the Employee and the Union, at least sixty (60) calendar days prior to the date the Employee's services will be terminated, and the Employee's name will be placed on the appropriate recall list.

I. Placement of Laid Off Regular Employees on the Recall List. A regular Employee who has been laid off shall have the Employee's name placed on the recall list for the class of work from which the Employee's services were terminated and any related class at the same salary range for which the Employee meets the minimum qualification requirements provided there is no recall list for such related class. The Employee's eligibility may be terminated for any of the following reasons:



1. The eligible is no longer able to perform satisfactorily the duties of the class of work.
2. The eligible is appointed to a permanent position.
3. The eligible refuses two (2) offers of employment under the conditions that the eligible had previously indicated the eligible would accept.
4. The eligible fails to respond without good cause within ten (10) days to a written inquiry sent to the last address the eligible provided.
5. The eligible is no longer available for employment.
6. The eligible fails to report to duty after the eligible's appointment, without good cause, within the time prescribed by the appointing authority.

A laid off Employee's eligibility may be terminated for other valid reasons provided that if such an Employee's eligibility is so terminated, the Employee shall have the right to challenge the validity in accordance with the provisions of Article 11, Grievance Procedure.

J. Rank on the Recall List. Employees shall be ranked on the appropriate recall list and shall be certified to vacancies on the basis of retention points. The Employee with the highest retention points shall be ranked number 1, the next higher, number 2, etc.

K. Laid off Employees on the recall list shall be given first preference in the selection for vacancies over any other eligible lists. The laid off Employee with the highest retention points from the appropriate recall list shall be certified first. Certification of the next highest laid off Employee and subsequent eligibles shall be made only upon the refusal of the position by the higher laid off Employee or should such laid off Employee not be appointed for good cause.

L. The Employer upon request of the Union shall provide the Union, once annually, with copies of current recall lists showing the names of the regular Employees laid off, the departments in which they were last employed, and their total creditable service at the time of their layoff.

M. The time limits for notices contained herein shall not apply to those situations, such as the elimination of a Federally funded position, where the Employer had insufficient knowledge of such layoff to meet the time requirements.

## **ARTICLE 10 - TECHNOLOGICAL CHANGES**

A. The Employer and the Union recognize that changes in operations resulting from technological innovations may occur. When such changes occur, the Employer shall give first consideration to the utilization of affected Employees in the changed operations. In the event the affected Employees do not possess the requisite skills or knowledge to perform the required work in the new operation and such skills and knowledge can be acquired within a reasonable length of time, the Employer shall provide the necessary training to Employees during working hours and at the Employer's expense.

B. If the job of any Employee is eliminated because of the implementation of new technological innovations, the Employer shall, in the following order of priority: 1) place the Employee in a position comparable in level to the Employee's original position; 2) place the Employee in a lower level position provided that the Employee shall retain the Employee's existing rate of compensation so long as the Employee remains in the position; or 3) follow the procedure under Article 9, Reduction-In-Force.

C. Any Employee affected by this Article shall be required to meet the minimum qualification requirements for the class in which the Employee may be placed.

## **ARTICLE 11 - GRIEVANCE PROCEDURE**

A. Any complaint by an Employee or the Union concerning the application and interpretation of this Agreement shall be subject to the grievance procedure. Any relevant information specifically identified by the grievant or the Union in the possession of the Employer needed by the grievant or the Union to investigate and process a grievance, shall be provided to them upon request within seven (7) working days. The grievance shall be presented to the appropriate supervisor within twenty (20) working days after the occurrence of the alleged violation, or if it concerns an alleged continuing violation, then it must be filed within twenty (20) working days after the alleged violation first became known or should have become known to the Employee involved, except that in the case of an alleged payroll computational error, such allegation shall be presented to the department head or the department head's designee in writing within twenty (20) working days after the alleged error is discovered by the Employee, or the grievance may not be considered.

B. An individual Employee may present a grievance to the Employee's immediate supervisor and have the Employee's grievance heard without intervention of the Union, provided the Union has been afforded an opportunity to be present at the conference(s) on the grievance. Any adjustment made shall not be inconsistent with the terms of this Agreement. By mutual consent of the Union and the Employer, any time limits within each step may be extended.

C. Informal Step. A grievance shall, whenever possible, be discussed informally between the Employee and the Employee's immediate supervisor within the twenty (20) working days limitation provided for in paragraph "A" above. In such an event the Employee shall identify the discussion as an informal step grievance. The grievant may be assisted by the grievant's Union representative. The immediate supervisor shall reply within seven (7) working days. In the event the Employer does not respond within the time limits prescribed herein, the Union may pursue the grievance to the next step.

D. Step 1. If the grievant is not satisfied with the result of the informal conference, the grievant or the Union may submit a written statement of the grievance within seven (7) working days after receiving the answers to the informal complaint to the division head or the division head's designee; or if the immediate supervisor does not reply to the informal complaint within seven (7) working days, the Employee or the Union may submit a written statement of the grievance to the division head or the division head's designee within fourteen (14) working days from the initial submission of the informal complaint; or if the grievance was not discussed informally between the Employee and the Employee's immediate supervisor, the Employee or the Union may submit a written statement of the grievance to the division head or the division head's designee within the twenty (20) working day limitation provided for in paragraph "A" above.

A meeting shall be held between the grievant and a Union representative with the division head or the division head's designee within seven (7) working days after the written grievance is received. Either side may present witnesses. The division head or the division head's designee shall submit a written answer to the grievant or the Union within seven (7) working days after the meeting.

E. Step 2. If the grievance is not satisfactorily resolved at Step 1, the grievant or the Union may appeal the grievance in writing to the department head or the department head's designee within seven (7) working days after receiving the written answer. The department head or the department head's designee need not consider any grievance in Step 2 which encompasses different alleged violations or charges than those presented in Step 1. A meeting to discuss the grievance shall be held within seven (7) working days after receipt of the appeal. The department head or the department head's designee shall reply in writing to the grievant or the Union within seven (7) working days after the meeting.

F. If the Union has a class grievance involving Employees within a department, it may submit the grievance in writing to the department head or the department head's designee. Time limits shall be the same as in individual grievances and the procedures for appeal from unsatisfactory answer shall be the same as in Step 3.

If the Union has a class grievance involving Employees from more than one (1) department, it may submit the grievance in writing to the Governor and/or the respective

Mayors, or their designees, as the case may be. Time limits shall be the same as in individual grievances and the procedures for appeal from unsatisfactory answers shall be the same as in Step 3.

G. Step 3. If the grievance is not satisfactorily resolved at Step 2, the grievant or the Union may appeal the grievance in writing to the Employer or the Employer's designee within seven (7) working days after the receipt of the answer at Step 2. Within seven (7) working days after the receipt of the appeal, the Employer and the Union shall meet in an attempt to resolve the grievance. The Employer or the Employer's designee need not consider any grievance in Step 3 which encompasses a different alleged violation or charge than those presented in Step 2. The Employer or the Employer's designee shall reply in writing to the Union within seven (7) working days after the meeting.

H. Step 4. Arbitration. If the grievance is not resolved at Step 3 and the Union desires to proceed with arbitration, it shall serve written notice on the Employer or the Employer's representative of its desire to arbitrate within ten (10) working days after receipt of the Employer's decision at Step 3. Representatives of the parties shall attempt to select an Arbitrator immediately thereafter. If agreement on an Arbitrator is not reached within ten (10) working days after the notice for arbitration is submitted, either party may request the Hawaii Labor Relations Board to submit a list of five (5) Arbitrators. Selection of an Arbitrator shall be made by each party alternately deleting one (1) name at a time from the list. The first party to delete a name shall be determined by lot. The person whose name remains on the list shall be designated the Arbitrator. No grievance may be arbitrated unless it involves an alleged violation of a specific term or provision of the Agreement.

If the Employer disputes the arbitrability of any grievance, the Arbitrator shall first determine whether the Arbitrator has jurisdiction to act; and if the Arbitrator finds that the Arbitrator has no such power, the grievance shall be referred back to the parties without decision or recommendation on its merits.

The Arbitrator shall render the Arbitrator's award in writing no later than thirty (30) calendar days after the conclusion of the hearings or if oral hearings are waived then thirty (30) calendar days from the date statements and proofs were submitted to the Arbitrator. The decision of the Arbitrator shall be final and binding upon the Union, its members, the Employees involved in the grievance and the Employer. There shall be no appeal from the Arbitrator's decision by either party, if such decision is within the scope of the Arbitrator's authority as described below:

1. The Arbitrator shall not have the power to add to, subtract from, disregard, alter, or modify any of the terms of this Agreement.

2. The Arbitrator's power shall be limited to deciding whether the Employer has violated any of the terms of this Agreement.

3. The Arbitrator shall not consider any alleged violations or charges other than those presented in Step 3.

4. In any case of suspension or discharge where the Arbitrator finds such suspension or discharge was improper, the Arbitrator may set aside, reduce or modify the action taken by the Employer. If the penalty is set aside, reduced or otherwise changed, the Arbitrator may award back pay to compensate the Employee, wholly or partially, for any wages lost because of the penalty.

The fees of the Arbitrator, the cost of transcription, and other necessary general costs, shall be shared equally by the Employer and the Union. Each party will pay the cost of presenting its own case and the cost of any transcript that it requests.

## **ARTICLE 12 - TEMPORARY ASSIGNMENTS**

A. A temporary assignment shall mean the assignment by a competent authority and the assumption, without a formal change in position assignment, of the significant duties and responsibilities of another position due to:

1. The incumbent of the position not being able to perform the duties of the incumbent's position,

2. The incumbent of the position also serving on a temporary assignment and the department head certifies that the need for the services is immediate, essential, and in the best interest of the public, or

3. A vacancy that cannot be filled temporarily or permanently by a non-competitive promotion, a provisional appointment from within or outside the service, a transfer or a movement of another Employee and that the department head certifies that the immediate rendition of services is essential and in the best interest of the public and that such temporary assignment shall not exceed 120 working days; provided however, upon consultation with the Union a temporary assignment may be extended up to an additional sixty (60) working days.

B. When Employees are being considered for a temporary assignment to a position in a higher class, priority shall be given to Employees within the work place who are in the class immediately below the class of the temporary assignment, provided such Employees are capable of satisfactorily performing such assignment. If there is no such Employee in the next lower class in the same series, the above procedure will be continued among the lower classes in the same series, then to related series in descending order. In the event there is no capable Employee available in the work place, the above order of priority shall be accorded to Employees within the division. For purpose of this Article, work place shall be defined as that organizational segment which contains the position to which a temporary assignment is to be made, including its subordinate organizational segment. Whenever possible, temporary assignments shall

be based on a rotational system whereby each Employee within the organizational units mentioned above shall have an equal opportunity for a temporary assignment.

C. The Employer shall compensate Employees for temporary assignments within thirty (30) days (approximately two pay periods) from the end of each payroll period in which the temporary assignments are performed.

D. Whenever an Employee performs a temporary assignment, the Employer shall provide him with a record of the temporary assignment as evidence of such service for the Employee's personal use and file. Applicable temporary assignment experience may be claimed by an Employee when applying for promotions.

## **ARTICLE 13 - PROMOTIONS**

A. Seniority shall mean an Employee's continuous length of creditable service within the applicable governmental jurisdiction but not excluding the combined service time of classes of Employees whose functions are transferred from one jurisdiction to another through action of the legislature. An Employee shall not be credited with seniority until the Employee has completed the Employee's initial probationary period. Upon satisfactory completion of the Employee's initial probationary period, an Employee shall be credited with seniority from the Employee's date of initial probationary hire.

B. All authorized leaves without pay shall not constitute a break in service and shall be creditable for computing continuous length of service. If an Employee's service is involuntarily terminated in good standing and the Employee returns to the governmental jurisdiction, which the Employee left within one (1) year, the break in service shall be disregarded, but shall not be considered as creditable service.

C. When making promotions, the civil service statutes, rules and regulations, and procedures governing promotions, which exist on the effective date of this Agreement shall be applied, except as modified below:

1. For competitive promotions, the existing policies on announcements shall remain in effect. For non-competitive promotions, all notices to fill authorized vacancies shall be posted on appropriate bulletin boards and circulated to Employees within the division where the vacancy occurs for at least ten (10) calendar days prior to the closing date for receipt of applications. If the Employer does not post or circulate the notices for the specified number of days as provided in this section or in the personnel rules and regulations, the Employee shall be entitled to submit a late application.

2. If tests and/or examinations are used in selecting Employees for promotions, the Employer assures the Union that continuing efforts will be made to use tests and/or examinations that directly relate to the skills, abilities, and qualifications required for the class. For promotions restricted only to regular employees of the

jurisdiction, qualified employees to be interviewed shall be informed of the selection process to be used (such as oral interview and/or written exercise).

3. An Employee selected for promotion must meet the minimum qualifications.

4. Other factors being relatively equal, seniority shall prevail.

5. When making promotions, the Employer shall consider the following order of priority:

a. In the case of the respective County jurisdictions:

- 1) Employees within the division where the vacancy occurs;
- 2) Employees within the department where the vacancy occurs;
- 3) Employees within the respective jurisdiction.

b. In the case of the State jurisdiction:

- 1) Employees within a division on the island where the vacancy occurs;
- 2) Employees within the division (statewide) where the vacancy occurs;
- 3) Employees within the department on the island where the vacancy occurs;
- 4) Employees within the department (statewide) where the vacancy occurs;
- 5) Employees within the jurisdiction on the island where the vacancy occurs;
- 6) Employees within the jurisdiction (statewide).

(Note: The island of Maui includes the islands of Molokai, including Kalaupapa and Lanai.)

6. In the event an Employee with the greatest seniority applies and qualifies but is not selected, the Employee may request in writing to the appointing authority, within five (5) working days of the Employee's notification of non-selection either:

- a. An individual conference with the appointing authority or designated representative to discuss the reasons for non-selection; or
- b. A written statement of the reasons for non-selection.

7. Notice of selection shall be posted on the appropriate bulletin board where the vacancy existed.

#### **ARTICLE 14 - COMPENSATION ADJUSTMENT**

A. General Provision.

1. For purpose of clarification, the provisions of this Article shall not be applicable where an Employee moves from one (1) governmental jurisdiction to another, except as specifically provided herein.

2. For purposes of this Article, "basic rate of pay" means the rate of pay assigned to the salary range and step an Employee is receiving as compensation. For an Employee whose position is not assigned to the salary range, "basic rate of pay" shall mean the actual rate of remuneration for services performed in a particular position, not including any differentials.

3. When the effective dates of more than one (1) personnel action coincide, pay adjustments shall be made in the following order:

- a. Step movement;
- b. Negotiated wage increase;
- c. Changeover to a new pay schedule;
- d. Repricing;
- e. Promotion;
- f. Reallocation;
- g. Other personnel actions.



4. A leave of absence without pay shall end upon the day before the first working day an Employee properly reports for duty, and an Employee shall be entitled to receive compensation as of the first working day the Employee properly reports for duty. Each calendar day from the beginning to the end of an Employee's leave of absence without pay shall be charged as leave without pay provided that an Employee who is granted a leave of absence without pay and who returns to duty after being absent from work for only one (1) working day or less, shall be charged for one (1) day of leave of absence without pay or less, as applicable, even though one (1) or more scheduled or normal non-working days or a holiday may have preceded the Employee's return to duty.

5. An Employee who leaves the service without having worked on all scheduled working days for that month shall be compensated pursuant to the following formula: Employee's monthly basic rate of pay plus TD, CD, SD, RD or SAD as applicable x (number of days worked/number of working days in a month, including holidays).

6. An Employee who suffers a disabling personal injury arising out of and in the course of employment, except for an injury caused by the Employee's negligence, willful intention to injure the Employee or others, or by the Employee's intoxication or because of the influence of a non-prescribed controlled substance, shall be credited for a full day's work on the day of the injury regardless of the time the Employee is injured.

7. An Employee who initially was properly compensated following a promotion, the adoption of a new pay schedule, a temporary assignment, pricing or repricing, or any other personnel action affecting pay, shall not be required to make reimbursement when it is found subsequently that an overpayment in salary occurred due to the retroactive feature of a position classification action. However, the proper pay adjustment shall be made as of the first pay period following the date of notice of action by the director.

B. Compensation Adjustment Upon Promotion.

1. As used in this paragraph, "promotion" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position assigned to a class with a higher pay range in the salary schedule.

2. Effective July 2, 2001, a regular Employee who is promoted shall be compensated as follows:

a. For promotions involving a movement of three (3) or less pay ranges, the Employee shall be compensated at the corresponding step in the higher salary range.

b. For promotions involving a movement of more than three (3) pay ranges, the Employee shall be compensated at the step in the higher salary range which is equal to the rate for promotions involving three (3) pay ranges. If such rate falls below the minimum step, the Employee shall be compensated at the minimum step of the higher pay range.

C. Compensation Adjustment Upon Demotion.

1. The following definitions shall be applicable to this paragraph:

a. "Demotion" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position assigned to a class with a lower pay range in the salary schedule.

b. "Demotion due to a reorganization" means a demotion of an Employee as a result of a reorganization action.

c. "Demotion to avoid layoff" means a demotion accepted by an Employee to avoid being laid off.

d. "Disciplinary demotion" means a demotion action taken by the appointing authority for disciplinary reasons.

e. "Involuntary demotion" means a demotion action taken by the appointing authority due to the Employee's inability to perform the duties and responsibilities of the Employee's position, or due to the Employee's failure to meet qualification requirements for the position.

f. "Non-service connected disability demotion" means the movement of an Employee to a vacant civil service position assigned to a class with a lower pay range in the salary schedule, due to a disability sustained by the Employee other than while performing the duties and responsibilities of the Employee's position.

g. "Service connected disability demotion" means the movement of a regular Employee or an Employee serving an initial probationary period to a vacant civil service position assigned to a class with a lower pay range in the salary schedule, due to a disability sustained by the Employee while performing the duties and responsibilities of the Employee's position.

h. "Voluntary demotion" means a demotion requested by an Employee and granted by the appointing authority.

2. Disciplinary or Involuntary Demotion.

a. A regular Employee who is involuntarily demoted or who is demoted for disciplinary reasons shall be compensated at the corresponding step in the lower salary range or any lower step in the lower salary range.

b. Upon release from a disciplinary demotion given on a temporary basis, a regular Employee shall be compensated as though the Employee had remained in the former position continuously.

3. Demotion to Avoid Layoff; Demotion Due to Reorganization; Service Connected Disability Demotion.

An Employee who accepts a demotion to avoid layoff; or is demoted due to a reorganization; or who receives a service connected disability demotion, shall retain the Employee's basic rate of pay; provided:

a. If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

b. If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

4. Non-Service Connected Disability Demotion.

An Employee who receives a non-service connected disability demotion shall be compensated as provided below:

a. Effective July 2, 2001, a regular Employee who has fifteen (15) or more years of continuous service in the civil service of the Employee's governmental jurisdiction shall retain the Employee's basic rate of pay; provided that:

1) If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

2) If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

b. A regular Employee with at least five (5) years but less than fifteen (15) years of continuous service in the civil service of the Employee's governmental jurisdiction shall retain the Employee's basic rate of pay for a period beyond the effective date of the demotion as follows:

Years of Service	Months of Compensation Retention
5	12
6	14
7	16
8	18
9	20
10	22
11	24
12	26
13	28
14	30

1) If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

2) If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

c. The basic rate of pay of a regular Employee with less than five (5) years of continuous service in the civil service of the Employee's governmental jurisdiction, or a regular Employee whose retention period as prescribed in clause b., has expired, shall be adjusted in the manner of adjustments for service-connected disability demotion, provided the Employee shall not be entitled to temporary differential.

#### 5. Voluntary Demotion.

a. Effective July 2, 2001, a regular Employee who accepts a voluntary demotion shall be compensated as follows:

1) For voluntary demotions involving a movement of three (3) or less pay ranges, the Employee shall be compensated at the corresponding step in the lower pay range.

2) For voluntary demotions involving a movement of more than three (3) pay ranges, the Employee shall be compensated at the step in the lower pay range which is equal to the rate for voluntary demotions involving three (3) pay ranges. If such rate falls above the maximum step in the lower pay

range, the Employee shall be compensated at the maximum step of the lower pay range.

b. Upon return to the position in which an Employee last held a permanent appointment, a regular Employee who is demoted on a temporary or provisional appointment basis shall be compensated as though the Employee had remained in the former position continuously.

D. Compensation Adjustment Upon Transfer.

1. "Transfer" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position which is in the same class or in a different class assigned to the same pay range in the salary schedule.

2. A regular Employee who is transferred shall continue at the same basic rate of pay.

E. Compensation Adjustment Upon Reallocation.

1. The following definitions shall be applicable to this paragraph:

a. "Reallocation downward" means the reallocation of a position to a class assigned to a lower pay range in the salary schedule.

b. "Reallocation upward" means the reallocation of a position to a class assigned to a higher pay range in the salary schedule.

2. Compensation following reallocation upwards shall be adjusted in the manner as adjustments for promotion.

3. Compensation adjustment for a reallocation downwards shall be in the manner prescribed in paragraph C.3. However, when downward reallocations are due to disciplinary, involuntary, or voluntary reasons, the Employee's basic rate of pay shall be adjusted in the manner as adjustments for disciplinary, involuntary, or voluntary demotions, as applicable.

4. Compensation following reallocation of a position in a class to the same pay range shall be adjusted in the manner of adjustments for transfer.

F. Compensation Adjustment Upon Repricing.

1. The basic rate of pay of an Employee whose position is in a class which is repriced to a higher pay range shall be adjusted in the manner as adjustments for promotion.

2. The basic rate of pay of an Employee whose position is in a class which is repriced to a lower pay range shall be adjusted in the manner as adjustments are prescribed in paragraph C.3.

G. Compensation of Employees Selected from an Open Competitive List Resulting from a Recruitment Above the Minimum.

Notwithstanding any paragraph in this Article, Employees selected through an open competitive recruitment which permits hiring above the first step may be compensated at a rate determined by the Employer upon their appointment from the open competitive list; provided that the amount the Employee will receive is not less than the amount the Employee would have received if the Employees were compensated in accordance with the applicable paragraph.

H. Permanent Differential

1. An Employee may be eligible for a permanent differential as may be provided by Article 50.

2. The permanent differential shall not be considered part of an Employee's basic rate of pay.

3. The differential shall not be further adjusted by subsequent salary adjustments.

4. When an Employee with a permanent differential is promoted, demoted or transferred, or whose position is reallocated to a class in a higher, the same or lower pay range, the permanent differential shall be continued in the new pay range.

I. Compensation for Temporary Assignment Performed.

Compensation for temporary assignment shall be as follows:

1. Except as provided in subparagraph 6, the basic rate of an Employee who performs temporary assignment involving a position assigned to a class in a higher pay range in the salary schedule shall be adjusted in the manner as adjustments for promotion except that any temporary differential which the Employee was receiving shall not be added to the basic rate of pay but shall be retained by the Employee while performing the temporary assignment. Any Employee who performs temporary assignment involving a position for which an adjusted entry rate has been prescribed by the Employer, and whose rate of pay, when adjusted hereunder is below the adjusted entry rate, shall be entitled to an additional amount of compensation which shall be the difference between the Employee's adjusted rate of pay and the adjusted entry rate

prescribed by the Employer. This difference, to be referred to as a temporary assignment differential, (TAD) shall not be considered as part of the Employee's base pay. The TAD shall end upon completion of the temporary assignment.

2. An Employee who performs a temporary assignment involving a position assigned to the same or lower pay range in the salary schedule shall continue to be compensated at the Employee's basic rate of pay prior to the temporary assignment. It is provided that any Employee who performs temporary assignment involving a position for which an adjusted entry rate has been prescribed by the Employer, and whose basic rate of pay is below the adjusted entry rate, shall be entitled to an additional amount of compensation which shall be the difference between the Employee's basic rate of pay and the adjusted entry rate prescribed by the Employer. This difference, to be referred to as a temporary assignment differential, (TAD) shall not be considered as part of the Employee's base pay. The TAD shall end upon completion of the temporary assignment.

3. Whenever a temporary assignment involves the assumption of duties and responsibilities of an exempt position not assigned to a salary range (regardless of whether the exempt position is within the bargaining unit or outside of the bargaining unit), Employees will be compensated at the prescribed statutory rate of pay if such rate is higher than the Employee's existing basic rate of pay. If there is no prescribed statutory rate, the appointing authority may exercise discretion in setting compensation for the temporary assignment; provided, the compensation shall be no less than the Employee's basic rate of pay.

4. Whenever a temporary assignment is made for an exempt Employee whose position is not assigned to the salary schedule, and whose temporary assignment involves the assumption of the significant duties and responsibilities of a position assigned to a salary schedule outside of the bargaining unit, the following will be used to determine whether the assignment is to a higher pay range.

The maximum rate for the class to which temporary assignment is made is higher than the Employee's existing rate; provided, the dollar difference between the two is more than five percent (5%) of the Employee's existing basic rate of pay.

If the temporary assignment is to a position in a higher pay range, as determined above, the Employee will be compensated at that step in the higher pay range which exceeds the Employee's existing rate by five percent (5%). If there is no step in the higher pay range which rate exceeds the Employee's basic rate of pay by at least five percent (5%), the Employee shall be compensated at the maximum step in the higher pay range or at the Employee's basic rate of compensation, whichever is greater.

If the temporary assignment does not involve a higher pay range as determined above, the Employee shall be compensated pursuant to subparagraph 2.

2. TAD shall be provided in the same manner as provided in subparagraphs 1 and

5. Whenever a temporary assignment involves the assumption of the duties and responsibilities of a position in the Excluded Managerial Compensation Plan (EMCP), the following will be used to determine whether the assignment is to a higher pay range:

The excluded managerial position is in a class for which the maximum rate for the class is higher than the maximum rate for the Employee's class; provided, the dollar difference between the two maximum rates is more than the dollar difference between the minimum and second step of the Employee's pay range.

If the temporary assignment involves a position in a higher pay range, as determined above, then the Employee will be compensated by whichever of the following methods of pay computation nets the Employee a greater amount.

a. By adding the dollar difference between the minimum rate of the EM salary range and the Employee's existing salary range to the Employee's existing rate of pay; or

b. By adjusting the Employee's basic rate of pay as though a promotion had occurred within the same salary schedule. (To determine the adjustment, use the following equivalency table: EM-01 equates to SR-24, EM-02 equates to SR-25, EM-03 equates to SR-26 etc.)

If the temporary assignment does not involve a higher pay range as determined above, the Employee shall be compensated pursuant to subparagraph 2.

2. TAD shall be provided in the same manner as provided in subparagraphs 1 and

6. Compensation adjustments shall not be provided for the following:

a. An Employee whose position includes assuming the duties and responsibilities of the Employee's superior in the absence of the superior and which assignment is recognized in the Employee's position classification and pricing.

b. An Employee who performs duties in accordance with the terms of a formal training agreement entered into with the Employee's department head and approved by the director.



J. Temporary Differential Pay.

1. An Employee shall be eligible for temporary differential pay as may be provided in this Article. The amount of TD pay shall be the difference between the Employee's basic rate of pay prior to the action taken and the Employee's new basic rate of pay.

2. The TD pay shall not be considered part of an Employee's basic rate of pay.

3. The TD pay shall be reduced by an amount equal to any adjustment in the Employee's basic rate of pay due to promotion, upward reallocation, or repricing upward actions. When the adjustment due to these actions is greater than or equal to the TD pay, the TD pay shall be terminated.

4. When an Employee with TD pay is demoted or transferred, or whose position is reallocated to a class in the same or lower pay range, the TD shall be continued in the new pay range.

K. Compensation Adjustment for Non-Regular Employees.

1. Movements of non-regular Employees to other civil service positions shall not be classified as promotions, transfers, or demotions, but shall be considered as new appointments and compensation adjustments upon these new appointments shall be as prescribed in this paragraph.

2. A non-regular Employee who is moved from the position in which the Employee was serving a probational appointment to another position assigned to the same salary range shall continue at the same basic rate of pay.

3. A non-regular Employee who is moved from the position in which the Employee was serving a temporary appointment to another position in the same salary range and salary schedule and in the same department shall continue at the same basic rate of pay.

4. Non-regular Employees serving temporary appointments who are converted to initial probational or permanent appointments in the same positions that the Employees were serving temporary appointments will continue to receive the same basic rate of pay they were receiving while serving temporary appointment.

5. The compensation of a non-regular Employee after a personnel transaction other than as described in subparagraphs 2, 3, and 4, shall be at the initial step of the salary range.

L. Compensation Adjustment for Exempt Employees Accepting Civil Service Appointments, or Whose Exempt Positions are Converted to Civil Service Positions.

1. Exempt Employees who move to civil service positions or who are granted civil service status pursuant to legislation shall not have the transaction considered as promotions, transfers, or demotion. Such transactions shall be considered new appointments and pay adjustments upon these new appointments shall be as prescribed in this paragraph.

2. An exempt Employee who is granted civil service status pursuant to legislation shall retain the basic rate of pay the Employee was receiving immediately prior to being granted civil service status; provided:

a. If the Employee's rate of pay falls between two (2) steps in the salary schedule, the Employee shall be compensated at the lower step.

b. If the Employee's rate of pay falls below the minimum step of the salary schedule, the Employee shall be compensated at the minimum step.

c. If the Employee's rate of pay falls above the maximum step of the salary schedule, the Employee shall be compensated at the maximum step.

3. Exempt Employees selected from an open competitive list to civil service positions other than as described in subparagraph 1, shall be compensated at the initial step of the salary range.

M. Compensation Adjustment for Employees Moving to Exempt Appointments.

Movements of Employees to exempt positions shall not be classified as promotions, transfers, or demotions, but shall be considered as new appointments and compensation adjustments upon these new appointments shall be as follows:

1. The Employee shall be compensated at the prescribed statutory rate for the exempt position; or,

2. If there is no prescribed statutory rate, then the rate determined by the appointing authority.

N. Compensation Adjustments for Regular Employees Serving Limited Term Appointments, Temporary Appointments, or New Probational Appointments, in Another Position.

1. Regular Employees serving limited term appointments, temporary appointments, or new probational appointments, who are promoted, transferred, or demoted, or whose permanent position is reallocated or repriced shall have their compensation adjusted from their permanent positions pursuant to paragraphs B, C, D, E, or F, as applicable, except as follows:

a. An Employee who is moved from the position in which the Employee was serving a probational appointment to another position assigned to the same salary range shall continue at the same basic rate of pay.

b. An Employee who is moved from the position in which the Employee was serving a temporary appointment to another position in the same class and in the same department shall continue at the same basic rate of pay.

2. Regular Employees serving limited term or other temporary appointments who are converted to probational or permanent appointments in the same positions that they were serving on a limited term or other temporary appointment basis shall continue to receive the same basic rate of pay they were receiving while serving the limited term or temporary appointment.

O. Compensation Adjustments Following an Intergovernmental Movement Made Pursuant to Law.

When an intergovernmental movement has been made pursuant to law, the compensation of the regular Employee involved shall be adjusted as follows:

1. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with a higher pay range in the salary schedule than the previous pay range, the Employee's compensation shall be adjusted in the manner as adjustments for promotion.

2. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with the same pay range in the salary schedule as the previous pay range, the Employee's compensation shall be adjusted in the manner of adjustments for transfer.

3. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with a lower pay range in the salary schedule than the previous pay range, the Employee's compensation shall be adjusted in the manner as adjustments for voluntary demotion.

P. Step Movements

1. Step movements under this paragraph shall begin no earlier than July 1, 1995. All step movement costs under this paragraph shall be included in the costs of collective bargaining and submitted to the respective legislative bodies for approval at the appropriate time.

2. The following definitions shall be applicable to this paragraph:

a. "Step movement" means the movement of an Employee to the next step, within the same pay range which rate immediately exceeds the Employee's basic rate of pay.

b. "Step movement date" means the date the Employee is to be granted a step movement after rendering the minimum number of years of creditable service.

3. In determining creditable service for step movement, the following shall apply:

a. "Service" means employment service on a step in any Employer jurisdiction in an existing or former position, which is or has been included in bargaining unit 13 or which would have been included in bargaining unit 13 were it not excluded therefrom, provided there is no break in service.

b. "Break in service" for purposes of this paragraph, means a separation from service or a movement out of the bargaining unit; provided that a new appointment within the bargaining unit on the next consecutive work day shall not constitute a break in service.

c. Service throughout a work year shall be creditable for a step movement provided that the following shall be considered time not creditable:

1) absences without pay, except as provided in subparagraph 3.d below;

2) absences due to suspension; or

3) any period of substandard performance.

d. A period of authorized leave without pay for the following purposes shall be construed as creditable service:

1) to be on sabbatical leave,

2) to recuperate from an injury for which workers' compensation weekly payments are made, or

3) to be on military service where the President of the United States or the governor of the State has called the Employee to active duty.

4. Determining Step Movement Date

a. Subject to adjustment for all periods of time not creditable as provided in subparagraph 3.c, the step movement date shall be determined as follows:

1) For Employees in the bargaining unit as of June 30, 1993, the step movement date shall be determined by the most recent date of hire.

2) For Employees who enter a position in the bargaining unit after June 30, 1993, the step movement date shall be determined by the date the Employee initially entered a position in the bargaining unit.

3) For Employees who re-enter a position in the bargaining unit after June 30, 1993, the step movement date shall be determined by the date the Employee re-entered a position in the bargaining unit.

b. The Employee's step movement date determined under 4.a shall not be adjusted upon movement to another position in the bargaining unit without a break in service, regardless of Employer jurisdiction.

#### 5. Eligibility for Step Movement.

a. Any Employee who is at a step or rate below the maximum step of the pay range shall be eligible for and shall receive a step movement on the Employee's step movement date, provided the Employee has completed the minimum number of years of satisfactory creditable service required for advancement to the next higher step as specified in the following:

<u>Existing Step</u>	<u>Minimum No. of Years of Creditable Service at Existing Step Before Movement to Next Step</u>
B	2
C	2
D	2
E	3
F	3
G	3
H	3
I	3

Effective July 1, 1994, the minimum number of years of satisfactory creditable service required for advancement to the next higher step shall be amended as specified in the following; provided that time earned at a step in the above shall be credited toward eligibility for a step movement in the following:

<u>Existing Step</u>	<u>Minimum No. of Years of Creditable Service at Existing Step Before Movement to Next Step</u>
C	2
D	2
E	2
F	3
G	3
H	3
I	3
J	3

Effective July 1, 1995, the minimum number of years of satisfactory creditable service required for advancement to the next higher step shall be amended as specified in the following; provided that time earned at a step in the above shall be credited toward eligibility for a step movement in the following:

<u>Existing Step</u>	<u>Minimum No. of Years of Creditable Service at Existing Step Before Movement to Next Step</u>
C	2
D	2
E	2
F	3
G	3
H	3
I	3
J	3
K	3

b. The Employee shall not be entitled to receive a step movement on a date earlier than the Employee's step movement date and any time earned in excess of the minimum time required for the step movement is voided upon movement to the next higher step in the same pay range.

#### 6. Effect of Personnel Actions

##### a. Promotion, Demotion, Reallocation or Repricing

Notwithstanding subparagraph 5 above, an Employee who is promoted, demoted or whose position is reallocated or repriced to another pay range shall be credited with time earned in the former pay range or pay ranges toward eligibility for a step movement in the new pay range.

##### b. Transfer or Reallocation to a Class at Same Pay Range

An Employee who is transferred or whose position is reallocated to a class in the same pay range shall not lose time earned toward eligibility for a step movement increase.

c. Return to Position Following Release from Limited Term, Provisional or New Probationary Appointment

An Employee who returns to the Employee's permanent position following release from a limited term, provisional or new probationary appointment, whether from a position within the bargaining unit or from a position outside the bargaining unit, shall be credited with service rendered as though the Employee had remained in the former position continuously.

7. Crediting Service Applicable for Step Movement Beginning July 1, 1995

a. For Employees in the bargaining unit as of June 30, 1993, time earned toward eligibility for a step movement under this paragraph shall begin with service rendered as of July 1, 1993.

b. For Employees who entered the bargaining unit on or after July 1, 1993, time earned toward eligibility for a step movement under this paragraph shall begin with service rendered from the date the Employee entered the bargaining unit.

c. Step movements under this paragraph shall take place no earlier than July 1, 1995.

Q. Other Compensation Adjustments.

Compensation adjustments not expressly provided for by this Agreement but necessitated by authorized personnel movements or situations shall be made by the director of personnel services, director of civil service, or the administrative director of the courts, as applicable; provided that consultation shall take place with the Union prior to effecting any adjustments under this paragraph.

## **ARTICLE 15 - TRAINING OPPORTUNITIES**

A. The Employer recognizes the value of Employee input in the development of training programs. To encourage Employee input, a professional and scientific Employees' training committee(s) shall be established for the purpose of assessing training needs on input from within the bargaining unit and submitting any recommendation it may arrive at to the Employer or the department head, as the case may be, for the Employer's or department head's consideration. A committee shall be established in each department with fifty (50) or more Employees. Departments with less than fifty (50) Employees shall be combined into a jurisdiction-wide committee.

The size of the committee shall consist of at least two (2) but no more than three (3) representatives from each party, provided however, in the case of the State jurisdiction the Employee representative shall be from the Island of Oahu. The date, time and location of meetings shall be determined by mutual agreement between the parties. Meetings shall be held at least once semi-annually, during working hours, however, any additional meetings may be called by mutual consent between the parties.

A meeting shall be held within ninety (90) days after the signing of this Agreement to organize and establish the committees. This meeting shall not be considered as one of the required semi-annual meetings.

This committee shall function as an input vehicle for the purpose of making recommendations. Nothing contained herein shall be construed as precluding the Employer from implementing programs other than those which have been considered by the committee nor shall such other programs be subject to action by the aforementioned committee. However, it is understood that the Employer or the department head, as the case may be, may request input from the appropriate committee(s) with regard to such program.

B. The parties agree that Employees shall be notified (posted on bulletin boards) by the Employer and encouraged to participate in training and development programs. The Employer shall notify the Union of all existing training programs.

C. All training which the Employer requires of an Employee shall be conducted during working hours. When such training falls outside of the Employee's normal work hours, the Employee's normal work hours may be adjusted so as to accommodate the time spent in training. The adjustment in work hours shall not be construed to be working a split shift.

D. A regular Employee shall be permitted to request attendance in a training program or course of instruction, and the Employer shall approve such a request if the following conditions are met:

1. The course of instruction meets the approval of the Employer, is related to the Employee's job, and will improve the Employee's skills to meet the needs of the Employer.

2. Attendance in the program or course will not disrupt the normal operations of the Employer.

3. Funds are available.

Upon satisfactory completion of courses of instruction or training programs approved by the Employer, the Employer shall reimburse the Employee for the cost of



tuition, books, and supplies, as applicable, provided any textbooks paid for by the government shall remain its property.

E. The Employer shall inform affected Employees of new work procedures which relate directly to their work.

F. Subject to the conditions of paragraphs D.1. and D.2. above and if sufficient funds are not available, the Employee may be permitted to participate at the Employee's own expense in training programs or courses of instruction which are scheduled during working hours with the prior approval of the Employer or the Employer's designated representatives.

G. The Employer shall provide in-service training programs.

H. Evidence of satisfactory completion of any training courses or programs shall be placed in the Employee's personnel file and may be used as a factor in giving consideration in the Employee's future promotion; however, said consideration shall not be construed as affording the Employee precedence or preference over other Employees who have demonstrated greater job proficiency or have greater experience.

I. The Employer and the Union jointly shall provide a regularly scheduled pre-retirement advisory program covering benefits and rights of retired Employees. Those Employees who are contemplating retirement may attend this program.

J. Whenever an Employee applies for and is denied training, the Employee shall upon the Employee's written request be informed of the reasons for denial in writing.

## **ARTICLE 16 - PERSONNEL FILE**

A. An Employee shall, upon request and by appointment, be permitted to examine the Employee's personnel files. The Employee shall be given a copy of any material if it is to be used in connection with a grievance or personnel hearing.

B. No derogatory material shall be placed in the Employee's personnel file unless the Employee has had an opportunity to read the material and an opportunity to sign it indicating the Employee had read the material. The Employee shall also be given an opportunity to attach explanatory remarks and/or a rebuttal to the derogatory material to be placed into the Employee's personnel file.

C. All derogatory material including any related explanatory remarks and rebuttals in an Employee's file shall be destroyed after two (2) years, unless the department head makes a determination of the current relevancy of such material. If the Employee or the Union, upon consent of the Employee, disputes the relevancy of

such material, the department head shall attach the department head's reasons for relevancy to such material in writing.

If the department head determines that the material is relevant currently, it may remain in the file for another year and again reviewed in the same manner.

D. All derogatory material shall be destroyed after five (5) years.

E. The employment history record shall not be destroyed.

F. The Employer may maintain more than one personnel file; however, one of these files shall include, but not be limited to, an Employee's personnel transaction records, derogatory materials, commendatory materials and performance evaluation. The Employer shall designate and inform the Union of the location of the file.

## **ARTICLE 17 - PERSONAL RIGHTS AND REPRESENTATION**

A. The Employer shall not require Employees to transport government equipment in their private vehicles, if such Employees do not receive mileage allowance.

B. Upon the request of the Union, existing dress and personal appearance codes shall be reviewed by the Employer or the Employer's designee and Union. The Employer or the Employer's designee shall consult with the Union before establishing new dress and personal appearance codes.

C. Both parties agree that Employees shall not use their business addresses (place of employment) to receive personal mail; provided, however, if personal mail is sent to Employees' business addresses without their knowledge or consent, the Employer shall endeavor to forward such personal mail unopened.

D. The Employer shall provide Employees with supplies and equipment which are required in the performance of the Employee's official duties. Except in the case of negligence on the part of the Employee, when such equipment is stolen, lost, damaged and/or worn out it shall be repaired or replaced by the Employer.

E. The Employer shall provide legal counsel for an Employee upon request when:

1. the Employee is sued for actions taken by the Employee in the course of the Employee's employment and within the scope of the Employee's duties and responsibilities.

2. the Employee must appear as a defendant or is subpoenaed to appear in court when sued for actions taken in the course of employment and within the scope of the Employee's duties and responsibilities.

3. the Employee must appear as a witness or is subpoenaed to appear in court on a matter arising in the course of employment and within the scope of the Employee's duties and responsibilities.

4. the Employee is required to give deposition or answer interrogatories on a matter arising in the course of employment and within the scope of the Employee's duties and responsibilities.

In addition, the Employee's required presence in any of the foregoing situations shall be considered work time, provided, whenever an Employee's required presence is on the Employee's scheduled day off or holiday off, the Employee shall be guaranteed a minimum of three (3) hours straight time pay.

F. When grievances are filed against Employees of this unit for actions taken by them in the course of their employment and within the scope of their supervisory and/or managerial duties and responsibilities, the Employer shall provide them with necessary staff support and representation. When such assistance is requested by the Employee and the Employer fails to furnish such assistance, the Employee will not be penalized for any improper action taken.

G. The Employer shall provide Employees with advice and assistance in the interpretation and administration of collective bargaining contracts or agreements covering their subordinates. Whenever Employees perform or carry out their assigned supervisory and/or managerial duties and responsibilities, based on such advice and assistance, the Employer agrees to provide full support to the Employees should conflict or grievances arise.

H. The Employee shall have the right to refuse for good cause as determined by the Employer to work overtime, to accept a temporary assignment, and to perform any work not representative of the Employee's class.

I. If a judgment or court approved settlement is made against an Employee in a civil suit for actions taken by him in the course of the Employee's employment and within the scope of the Employee's duties and responsibilities, the Employer agrees to do no more than submit to the Legislature or the County Council any judgment (or court approved settlement) against the Employee, with the Employer retaining the discretion of recommending or not recommending legislative approval.

J. Bill of Rights.

As used herein, the term "complaint" refers to an allegation against an Employee which is made by an individual who is not employed within the same department. Whenever such a complaint is filed, the following shall be applicable:

1. No Employee shall be required to sign a statement of complaint filed against him.
2. If the Employer pursues an investigation based on such complaint, the Employee shall be advised of the seriousness of the complaint. The Employee will be informed of the complaint, and will be afforded an opportunity to respond to the complaint, and to furnish evidence in support of the Employee's case. The Employee shall have the right to be represented by the Union in presenting the Employee's case.
3. Before making a final decision, the Employer shall review and consider all available evidence and data, including factors supporting the Employee's position, whether or not the Employee offers such factors in the Employee's own defense.

## **ARTICLE 18 - UNIFORMS**

### **I. General Application**

A. A uniform shall be defined as those items of distinctive clothing which are required by the Employer and which meet the following conditions:

1. Used to identify a specific group of Employees.
2. Shirt and/or trousers, blouse and/or skirt, dress or other clothing must be of the same design, color, cut, and style, and made of similar material for a specific group of Employees.

B. Uniform accessories which are required by the Employer shall be furnished by the Employer and shall remain the property of the Employer while in the custody of the Employee. Accessories include, but are not limited to, the following:

- |                    |                              |
|--------------------|------------------------------|
| 1. Sam Browne belt | 7. Hat                       |
| 2. Holster         | 8. Ammo pouch                |
| 3. Handcuffs       | 9. Name tag                  |
| 4. Handcuff case   | 10. Flashlight and batteries |
| 5. Patches         | 11. Whistle                  |
| 6. Badges          |                              |

C. The following items of apparel are not considered as part of a uniform:

1. Work clothing such as coveralls, aprons, smocks, etc.

2. Shoes, boots, socks, and ties. (Whenever the Employer requires the Employees to wear safety shoes or safety boots, the Employer shall provide such items.)

3. Shirts normally worn under a uniform coat or blouse. (Shirts of a distinctive uniform appearance normally worn as an outside garment in place of a uniform coat or blouse are considered as part of the uniform.)

D. Damaged or Lost Uniforms.

1. If an Employee's uniform is destroyed or damaged while worn in the performance of duty and without negligence, the Employer shall either replace the item or items of uniform destroyed, or reimburse the Employee for the cost of the item or items of uniform destroyed; provided that the Employee's supervisor recommends replacement or reimbursement and the Employer or its designee approves such recommendation.

2. Replacement or reimbursement shall not be made by the Employer when a uniform is lost, stolen, destroyed or damaged due to negligence by the Employee, or where the uniform is wilfully destroyed or damaged by the Employee.

E. The Employer shall post on the bulletin board a list of approved vendors where uniforms shall be purchased. A copy of this list shall also be furnished to the Union.

F. Effective January 1, 1994, whenever an Employee is required by the Employer to wear a uniform, the Employer shall have the option to (1) clean such uniforms or (2) provide a uniform maintenance allowance of \$20.00 per month provided:

1. if the uniform consists only of button shirt, trousers or jacket, the allowance shall be \$10.00 per month; or

2. if the uniform consists only of t-shirt or shorts or both, the allowance shall be \$6.00 per month.

Such allowance for each fiscal year shall be paid once annually on or about June 30 of the fiscal year. If the employment of the Employee commences or terminates during the fiscal year, the sum paid shall be adjusted on a prorated basis. No allowance shall be payable during periods of suspension of five (5) or more days or for periods when the Employee is on any leave of absence without pay.

II. Existing Policies and/or Practices

A. All policies and/or practices existing on the effective date of the Agreement which provide or require that the Employer either initially furnish uniforms to Employees, or initially reimburse Employees for the cost of the uniforms which are

purchased from a vendor approved by the Employer shall be continued for the duration of the Agreement.

B. All policies and/or practices of the Employer existing on the effective date of the Agreement which provide for the replacement of uniforms due to normal wear and tear, or which provide for a replacement allowance for uniforms due to normal wear and tear and shall be continued for the duration of the Agreement.

### III. Uniforms for New Groups of Employees

In the event that the Employer determines that a group of Employees, other than those covered by existing policies and/or practices, be required to wear uniforms, the following shall apply:

1. The Employer shall consult with the Union to determine the reasonable number of sets of uniforms which specific groups of Employees are entitled to receive on an initial basis.

2. The Employer shall either furnish the uniforms or reimburse Employees for the cost of the uniforms which are purchased from a vendor approved by the Employer.

3. The replacement of uniforms due to wear and tear shall be by Employer approval.

4. Effective January 1, 1994, the Employer may choose to furnish such replacement or provide for replacement allowance of 75% of the actual replacement cost of the items of uniforms purchased by the Employee.

5. If the Employer opts for the replacement allowance, the items of uniform being replaced shall be purchased from an approved vendor and substantiated by a receipt.

## **ARTICLE 19 - SAFETY AND HEALTH**

A. Safety and Health Requirements. The Employer shall conform to and comply with applicable regulations requiring safe, healthy, and sanitary working conditions prescribed by the Department of Health, Department of Labor, or any other governmental body. In addition, the Employer shall insure compliance with the applicable provisions of the Federal Occupational Health and Safety Act of 1970. The Employer shall provide, among other things:

1. When feasible in the renovation or construction of government buildings, the Employer shall endeavor to include in the Employer's specifications, provisions to provide, but not limited to the following: air conditioning; cold water fountains; restrooms for Employees separate from public restrooms; areas for meals.

2. When adequate lighting is essential to the performance of a specific function, the Employer shall provide necessary lighting equipment.

B. Protective Clothing and Protective Equipment and Tools.

1. Whenever the Employer requires that Employees wear protective clothing or use protective equipment and tools, the Employer shall provide and replace such items.

2. When an Employee performs work requiring the use of protective clothing and the Employee's garment is damaged because the protective clothing is inadequate, the Employer shall be responsible for reimbursing the reasonable value of the garment. The reasonable value shall be mutually agreed upon by the department head or the department head's designee and the affected Employee. Whenever such damage occurs, it shall be reported immediately to the Employee's supervisor.

3. When Employees are required to work outdoor, where adequate protection against inclement weather is not readily available, the Employer shall provide raincoats for protection against such inclement weather.

C. Working Conditions.

1. Sanitary toilet facilities will be provided.

2. Clean, cool, potable drinking water shall be made accessible.

3. All office and work areas shall be provided with natural or mechanical systems of ventilation.

D. No Employee shall be required to operate a motor vehicle which is deemed unsafe. If an Employee demonstrates that a motor vehicle which the Employee has been directed to operate is unsafe, the Employee or the Employee's representative and the Employee's department head shall mutually agree upon the appointment of a third party qualified to evaluate the safety of motor vehicles to determine the safety of said motor vehicle. The decision of the third party shall be final and binding upon the parties.

E. The Employer shall endeavor to provide security and protection for public Employees in offices where there have been experiences of frequent threats or violence.

## **ARTICLE 20 - TEMPORARY HAZARD PAY**

A. Award and Approval. Upon recommendation of a department head or the Union, the Personnel Director, in consultation with the Union, shall grant hazard pay to Employees who are temporarily exposed to unusually hazardous working conditions and where the following conditions are met (where the Union initiates a request, the request shall be addressed to the affected department head with a copy to the Personnel Director):

1. The exposure to unusually hazardous working conditions is temporary;
2. The degree of hazard is "Most Severe" or "Severe"; and
3. The unusually hazardous working conditions have not been considered in the assignment of the class to a salary range.

B. Hazard Pay Differentials. Hazard pay differentials shall be based on the minimum step of the Employee's salary range and shall be prorated as follows:

1. Most Severe--twenty-five (25) percent.
  - a. Exposure likely to result in serious incapacitation, long period of time lost, or possible loss of life.
  - b. Accidents occur frequently in spite of reasonable safety precautions.
  - c. Frequent exposure to hazard where failure to exercise extreme care and judgment might cause an accident which would result in total disability or fatality.
2. Severe--fifteen (15) percent.
  - a. Frequent injuries likely but serious accidents rare.
  - b. Exposure leads to possible eye injuries, loss of fingers, or serious burns.
  - c. Might cause incapacitation.
  - d. Moderate periods of compensable lost time result.



3. Any disagreement on the granting of Temporary Hazard Pay or the differential granted shall be subject to the grievance procedure and in accordance with Step 3 of Article 11, Grievance Procedure.

C. Computing Hazard Pay. The basic unit for computing such payments shall be the hour provided that:

1. A fraction of an hour shall be considered an hour;
2. A half day's pay at hazard rates shall be allowed for one (1) or more but less than four (4) hours of hazard work per day;
3. A full day's pay at hazard rates shall be allowed for four (4) or more hours of hazard work per day; and
4. This pay is in addition to any other rate that may apply to the job.

D. Duration of Hazard Pay Award. Such hazard pay award shall remain in effect for a period not to exceed six (6) months but may be renewed by the Personnel Director or the Personnel Director's representative upon showing by the department head that the working conditions and duties remain the same.

E. Forms and Other Requirements. Recommendations for hazard pay differentials shall be submitted on such forms and such manner as the Employer may require.

## **ARTICLE 21 - OFFICE HOURS AND WORK SCHEDULES**

A. Office hours during which offices must remain open to serve the public shall be 7:45 a.m. to 4:30 p.m., Monday to Friday inclusive, except for holidays.

B. Changes in work schedules shall be prepared and prominently posted at least one (1) week in advance so that the Employees affected will be informed. Such work schedules shall be for no less than two-week (2) periods and shall not be changed except for good cause. Such work schedules are not to be considered changed by the department unless the Employees affected are given at least forty-eight (48) hours prior notice. Whenever possible, work schedules shall permit an Employee to enjoy a holiday on the day it is observed.

C. All Employees will be allowed a lunch period not exceeding forty-five (45) minutes. Such lunch period shall not constitute working time.

## **ARTICLE 22 - REST PERIODS**

All Employees shall be allowed rest periods of ten (10) minutes during each half of the workday or work shift and before each two (2) hours of continuous overtime work performed after completing a regular workday or work shift of eight (8) hours. The times and locations at which rest periods shall be taken are to be determined by the department head or the department head's designee after giving due consideration to the desires of the Employees and the requirements of the department.

## **ARTICLE 23 - SHIFT WORK**

A. The work schedules for Employees who are required to work on scheduled shifts shall be prepared and prominently posted at least two (2) weeks in advance so that the Employees affected will be informed. Such schedules shall be for no less than two-week (2) periods and shall not be changed except for good cause and provided the affected Employee is given at least forty-eight (48) hours prior notice. Whenever possible, work schedules shall permit Employees to enjoy holidays on an equitable basis on the day it is observed. Wherever possible schedules shall be prepared to allow Employees two (2) consecutive days off.

B. A rotational system for shift work assignment will be established on an equitable basis for every Employee subject to shift work in the work unit insofar as the requirements of the mission will permit and in accordance with skills required. The Employer shall consult with the affected Employees in the development of the rotational system. Suitable records shall be maintained by the Employer to assure that each Employee receives substantially the same consideration.

C. An Employee shall not be scheduled to work more than two (2) different shifts or three (3) shift changes within any seven (7) consecutive calendar days. When the Employee is required to work in excess of the limitations stated herein, such Employee shall be paid overtime pay for each hour of work performed on the first workday of the third different shift or on the first workday of the fourth shift change within seven (7) consecutive calendar days.

## **ARTICLE 24 - PROFESSIONAL BENEFIT ARRANGEMENTS**

The Union, on behalf of the Employee(s) and the Employer may enter into a memorandum of understanding in writing to provide flexible working hours for the purpose of meeting deadlines, attending and/or conducting meetings, or performing any other work activity which would be mutually beneficial; provided, however, the affected Employee(s) must ratify the memorandum of understanding before it becomes effective. Through such a memorandum of understanding, the limitations of the Articles on Overtime, Split Shift Pay, and Night Shift Differential may be waived or modified. The memorandum of understanding may be terminated by the Union, on behalf of the

Employee(s) or by the Employer at any time upon written notice given thirty (30) days prior to such termination.

## **ARTICLE 25 - OVERTIME**

A. Coverage: Credit for Overtime Work. Employees are entitled to receive cash payment or compensatory time credit because of overtime work except for the following Employees.

1. Employees who are paid at salary range 31 and above, and
2. executive officers or executive secretaries to boards and commissions who have not been administratively assigned to a salary range,
3. exempt Employees not covered by Chapter 77, HRS who have not been administratively assigned to a salary range provided that exempt Employees employed with the Hawaii Public Broadcasting Authority shall be entitled to receive cash payment or compensatory time credit because of overtime worked, and,
4. law clerks.

B. Occurrence of Overtime Work. Overtime work occurs when an Employee renders service at the direction of proper authority and if the performance of such service is:

1. In excess of a scheduled eight (8)-hour workday.
2. In excess of forty (40) straight time hours per workweek.
3. On any day which is observed as a legal holiday; whenever the major portion of a shift falls on a day observed as a legal holiday, work performed during the entire eight-(8) hour shift shall constitute overtime work provided that no further credit because of the overtime work shall be granted notwithstanding any other provision of this Article.
4. On the Employee's scheduled day off and there has been no change, by mutual consent (or by due prior notice), in the work schedule.
5. In operating units subject to shift work when an Employee is required to report to a new shift with less than a lapse of twelve (12) hours of rest, the Employee shall continue to earn overtime until such a rest period is granted. However, when such a shift Employee (1) has worked either the Employee's scheduled shift and continues to work additional hours without interruption on an overtime basis or an established full shift on the Employee's scheduled day off and (2) works on the Employee's next scheduled shift with less than a lapse of ten (10) hours rest, the Employee shall be

entitled to overtime for those hours actually worked during the Employee's next scheduled shift which falls within the ten (10)-hour period. The ten (10)-hour period shall begin from the time the Employee completes the Employee's overtime work.

6. In accordance with specific conditions stipulated by this Agreement.

7. In operating units rendering public service seven (7) days per week, whenever an Employee whose work is subject to shifts is required to render full-time service for more than six (6) consecutive days, the Employee shall be entitled to overtime for each hour of work performed on the seventh day and each succeeding day until the Employee is granted a period of rest for twenty-four (24) non-work hours.

8. Whenever an Employee is required to perform overtime work within the sixteen (16) hour period immediately prior to the start of the Employee's scheduled workday and does not receive at least a total of ten (10) hours of rest within such sixteen (16) hour period, the Employee shall be entitled to overtime credits to be applied to the straight-time hours actually worked on such scheduled workday which shall be equal to the difference between the ten (10) hours and the number of actual hours of rest received.

C. Additions and exceptions to the above provisions are as follows:

1. Occurrence of overtime work with respect to official leave with pay or compensatory time--any official leave with pay or compensatory time credits which have been actually taken by an Employee shall be included in computing whether an Employee has worked in excess of eight (8) hours in a day or forty (40) hours in a week.

2. Whenever an Employee is required, with less than forty-eight (48) hours advance notice, to report for work on a workday or a shift for which the Employee was not officially scheduled, the Employee shall be credited for overtime work for each hour of work performed on the first workday of such new scheduled day or shift.

3. Exchange for Perquisites. An Employee who by agreement receives perquisites or accommodations in exchange for rendering standby or emergency duty in excess of the Employee's normal hours of work:

a. Will not earn overtime for rendering scheduled standby duty;

b. Will not earn overtime when called to perform emergency service during the Employee's scheduled hours of standby duty;

c. Will earn overtime for each hour of work when called to emergency duty on the Employee's scheduled day off.

D. Compensation for Overtime Work.

1. Regular Employees may elect in writing to take compensatory time off in lieu of cash payment. The Employer shall determine whether any other Employee is to be compensated in cash or be provided compensatory time off in lieu of cash payment.

2. The basic compensation for an Employee who performs overtime work shall include all differentials an Employee is receiving when performing overtime work, except for hazard pay differentials. To convert an Employee's basic compensation to an hourly rate, the following formula shall be used: (monthly salary plus the amount of monthly differentials) multiplied by 12 months then divided by 2,080 hours; plus any hourly differentials the Employee is earning.

3. Cash payment for overtime work shall be calculated as follows: (basic rate of pay plus differentials as determined in D.2.) multiplied by the number of hours worked or fraction thereof computed to the nearest fifteen (15) minutes multiplied again by one and one-half. (E.g.  $(\$15.00 + .31) \times 8 \text{ hours of overtime work} \times 1\text{-}1/2 = \$183.72$ )

4. Cash payment for overtime work shall be made within thirty (30) days (approximately two (2) pay periods) from the date the employee submits the appropriate Employer form for overtime payment.

E. Compensatory Time Off. An Employee who has compensatory time credit shall be scheduled for compensatory time off as mutually agreed to with the Employee's appointing authority.

F. An Employee on compensatory time off shall be deemed to be on official leave with pay status.

G. An Employee who notifies the Employee's department head in advance or substantiates to the satisfaction of the Employee's department head that the Employee was sick on a scheduled day of compensatory time off, shall be charged only for sick leave.

H. At the time of termination or resignation from service, the Employee shall be paid in cash for all compensatory time credit earned but not yet taken as compensatory time off.

I. Mutual Agreement. A Mutual Agreement in writing may be entered into between the Union and the Employer. Through such an Agreement, the limitation of Article 25 - Overtime, may be modified.

J. Definitions. The following definitions are specifically intended to clarify the intent of this Article.

1. Workday or shift. The term "workday" or "shift" is defined as a period of eight (8) hours during which a full-time Employee is scheduled to perform the

Employee's normal day's work. For scheduling purposes, a workday or shift may begin on one day and end on the next day.

2. Work subject to shifts or shift work. The term "work subject to shifts" or "shift work" is defined as a work operation in which there is more than one workday or shift in a calendar day. Flexible or staggered working hours shall not be considered in determining whether more than one such workday occurs in a calendar day.

3. Pre-shift. The term "pre-shift" is defined as that period of time immediately preceding a workday.

4. Post-shift. The term "post-shift" is defined as that period of time immediately following a workday.

## **ARTICLE 26 - TIME OFF FOR OVERTIME WORKED**

Whenever a non-shift Employee works a scheduled 8-hour workday immediately followed by the performance of at least ten (10) hours of overtime work, the Employer shall excuse the Employee from work on the Employee's next consecutive workday, with pay, unless the services of such Employee are needed due to an emergency affecting the public health or safety and replacements are not available. In the event of such an emergency, such Employee shall be excused from work as soon as possible when the emergency no longer exists.

## **ARTICLE 27 - MEALS**

A. When Employees are required to work overtime, the Employer shall either furnish them with meals or compensate them for meals at the rate of four dollars and twenty-five cents (\$4.25) for breakfast, four dollars and seventy-five cents (\$4.75) for lunch and six dollars (\$6.00) for dinner under the following situations:

1. Post-Shift Overtime. Employees who perform overtime work after their normal workday, shall be furnished or compensated for a meal after the first two (2) hours of actual overtime work performed and after intervals of five (5) hours following the first overtime meal.

2. Two or More Hours of Pre-Shift Overtime. When Employees are called to perform two (2) or more hours of pre-shift overtime work and are required to work continuously into their normal workday, they shall be entitled to meals for the period of

the overtime work as well as their normal workday. Employees shall be furnished or compensated for a meal upon completion of two (2) hours of overtime work and at intervals of five (5) hours of continuous work performed following the first meal.

3. Less than Two Hours of Pre-Shift Overtime. When Employees are required to work less than two (2) hours of pre-shift overtime with less than twenty-four (24) hours prior notice and works continuously into the Employee's normal workday, they shall be furnished or compensated for a meal at the start of their normal workday and at their normal period during the workday.

4. Overtime During Off-Duty Hours, Scheduled Day Off or Holiday.

a. Less Than 24 Hours Prior Notice. When Employees are required to work overtime during their off-duty hours (not post-shift or pre-shift), on a scheduled day off or a holiday, with less than twenty-four (24) hours prior notice, they shall be furnished or compensated for a meal upon completion of two (2) hours of overtime work and at intervals of five (5) hours of continuous overtime work performed following the first overtime meal. However, an Employee shall not be entitled to a meal after two (2) hours of overtime work if the overtime work commences within three (3) hours of a previous meal after a period of five (5) hours from the previous meal should the Employee continue working till this time, and shall be entitled to additional meals at intervals of five (5) hours of continuous overtime work thereafter.

b. 24 Hours or More Prior Notice. When Employees are required to work overtime during their off-duty hours (not post-shift or pre-shift), on a scheduled day off or a holiday with at least twenty-four (24) hours prior notice, they shall be furnished or compensated for a meal upon completion of ten (10) hours of such overtime work and at intervals of five (5) hours of overtime work performed following the first overtime meal.

5. Overtime While on Standby. When Employees render service in response to a call to work as provided under Article 28, Standby Pay, they shall be furnished or compensated for a meal upon completion of two (2) hours of work and at intervals of five (5) hours of continuous work performed following the first meal. However, an Employee shall not be entitled to a meal after two (2) hours of overtime work if the overtime work commences within three (3) hours of a previous meal after a period of five (5) hours from the previous meal should the Employee continue working till this time, and shall be entitled to additional meals at intervals of five (5) hours of continuous overtime work thereafter.

B. Notwithstanding paragraph A, an Employee who is required to travel inter-state or intra-state on official business and who receives a travel allowance pursuant to Article 45, Travel, shall be furnished or compensated at the rate of six dollars (\$6.00) for a dinner meal after performing seven (7) hours of overtime work.

C. For purposes of meal compensation, the following shall apply:

1. Breakfast shall mean any meal allowed an Employee from 3:00 a.m. to 9:00 a.m.

2. Lunch shall mean any meal allowed an Employee after 9:00 a.m. to 3:00 p.m.

3. Dinner shall mean any meal allowed an Employee after 3:00 p.m. but before 3:00 a.m.

D. The Employer shall compensate Employees for meals within thirty (30) days (approximately two pay periods) from the date on which the claim for compensation is filed with the respective disbursing officer.

E. The term "pre-shift" is defined as that period of time immediately preceding a workday.

The term "post-shift" is defined as that period of time immediately following a workday.

F. Dieticians in the Department of Health shall be provided without any charge one (1) meal per workday which is served as the house diet and such meal shall be the meal which is consumed during the Employee's normal meal period; provided that any institution in the Department of Health which is presently providing its dieticians more than one (1) meal per workday without charge shall continue to do so for the duration of this Agreement.

## **ARTICLE 28 - STANDBY PAY**

A. An Employee shall be deemed to be on standby duty when the Employee is assigned by the head of the department or other superior to remain at home or at any other designated place for a specific period for the purpose of responding to calls for immediate service after the Employee's normal hours of work, on the Employee's scheduled day off or on holidays. For each calendar day or portion thereof of standby duty the Employee shall be paid an additional amount equal to twenty-five percent (25%) of the Employee's daily rate.

B. Whenever it is necessary for an Employee on standby duty to render immediate service in response to a call to work, the Employee shall be entitled to further compensation as provided in the Call Back Pay provision contained herein.

C. Effective July 1, 2000, the Union and Employer agree that Employer may provide pagers and/or cellular telephones for the Employee's convenience in responding to calls from work.



Employees who are provided pagers and/or cellular telephones in lieu of remaining at home for the purpose of responding to calls for immediate service shall be entitled to standby pay after the Employee's normal hours of work, on the Employee's scheduled day off or on holidays with the following conditions:

1. The Employee has written authorization by the Employer that the Employee is on standby duty.
2. The Employee shall respond to a call for immediate service within the same period as if the Employee remained at home.
3. The Employee remains in a geographic location where the Employee can receive a pager or cellular call to respond to a call for immediate service.

## **ARTICLE 29 - CALL BACK PAY**

A. Whenever an Employee is called back to work after the completion of the workday and is released from the call back work before the start of the Employee's next regular consecutive workday, the Employee shall be credited with either:

1. A minimum of three (3) hours regular pay, calculated from the time the Employee leaves the Employee's home and until the Employee returns home from work, or
2. Overtime work calculated from the time the Employee leaves the Employee's home and until the Employee returns home, whichever is greater in value; provided, that overtime pay for work on holidays, days off and pre-shift overtime shall be in accordance with their respective Articles.

B. An Employee may be permitted rest periods of ten (10) minutes for each two (2) hours of call back work performed.

C. An Employee interrupted by Employer-initiated consultative call(s) while the Employee is at home and on off-duty status shall not qualify for call back pay unless the Employee actually returns to the workplace. Effective July 1, 1994, however, the Employee who is not on stand-by pay duty status shall be paid a minimum of one (1) hour straight time pay for one or more consultative calls within the same one-hour period, calculated from the onset of the first call and ending one hour later. The penalty for consultative calls shall be in lieu of any other compensation and shall not be subject to overtime provisions. For the purpose of this section, a consultative call shall mean an exchange of technical and/or procedural information to resolve a problem requiring immediate attention.

## **ARTICLE 30 - SHOW-UP TIME AND REPORTING PAY**

A. Show-up time and reporting pay on normal scheduled workday. An Employee who reports to work but who is unable to perform the Employee's normal work because of inclement weather, breakdown or unavailability of equipment, or other conditions beyond the Employee's control, shall be credited with the Employee's normal day of work; provided, however, the Employee may be assigned to perform other work as determined by the Employer or the Employer's designee.

B. Show-up time and reporting pay on scheduled day off.

1. An Employee who is required and reports to work on the Employee's scheduled day off but is unable to perform because of inclement weather, breakdown, or unavailability of equipment, or other conditions beyond the Employee's control, shall be guaranteed a minimum of three (3) hours straight-time pay.

2. An Employee who is required and reports to work on the Employee's scheduled day off and performs less than two (2) hours of work shall be guaranteed a minimum of three (3) hours of straight-time pay.

## **ARTICLE 31 - SPLIT SHIFT PAY**

A. The Employer recognizes that it is to the best interest of the Employees that split shifts be minimized except in cases where the Employer's mission cannot be economically administered by standard scheduling methods.

B. When, however, an Employee is required to work on a split shift basis, the Employee shall be paid a differential of twenty-five cents (\$.25) per hour for each hour, or fraction over thirty (30) minutes, of the Employee's workday and thirteen cents (\$.13) for each period of less than thirty (30) minutes of work.

C. Split Shift--A regular work shift, which may be less than eight (8) hours, in a day which is divided into two (2) or more portions by off duty periods other than meal time.

D. An Employee who works a split shift will earn overtime for each hour which exceeds ten (10) hours, exclusive of time for meals, calculated from the time the Employee starts and ends the Employee's workday. The Employee's basic compensation plus the split shift differential will be used in determining the cash payment for overtime work pursuant to Article 25, Overtime.

## **ARTICLE 32 - NIGHT DIFFERENTIAL**

A. Whenever an Employee's scheduled straight-time hours, including holiday work, fall between the hours of six (6:00) p.m. and six (6:00) a.m., the Employee shall be paid, in addition to the Employee's basic compensation, the amount of forty cents (\$.40) per hour for each hour of actual work performed during such six (6:00) p.m. to six (6:00) a.m. hours; provided, however, if one-half (1/2) or more of the Employee's scheduled straight-time hours fall between six (6:00) p.m. and six (6:00) a.m., the Employee shall be paid, in addition to the Employee's basic compensation, the amount of forty cents (\$.40) per hour for each straight-time hour actually worked. Effective July 1, 1991, the amount of differential shall be forty-five cents (\$.45) per hour for each straight-time hour actually worked.

B. Whenever an Employee's overtime hours fall between the hours of six (6:00) p.m. and six (6:00) a.m., the Employee shall be paid the night differential for each hour of actual overtime work performed during such six (6:00) p.m. to six (6:00) a.m. hours.

C. The Employee's basic compensation plus the night differential will be used in determining the cash payment for overtime work pursuant to Article 25, Overtime.

D. For the purpose of granting differential for work performed for a portion of an hour, the differential shall be twenty cents (\$.20) for work of one-half (1/2) hour or less, and forty cents (\$.40) for work of more than one-half (1/2) hour. Effective July 1, 1991, for the purpose of granting differential for work performed for a portion of an hour, the differential shall be twenty-three cents (\$.23) for work of one-half (1/2) hour or less, and forty-five cents (\$.45) for work of more than one-half (1/2) hour.

## **ARTICLE 33 - SABBATICAL LEAVE**

A. For purposes of improving public services, the Employer may grant sabbatical leaves of absence under conditions set forth in this Article.

B. An Employee who has served six (6) continuous years within the applicable governmental jurisdiction may qualify for a sabbatical leave of absence. Such leave shall be for a period not to exceed one (1) year and may not be granted again to the same Employee until the Employee has served an additional period of six (6) continuous years within the applicable governmental jurisdiction. For the purpose of computing continuous years of service in this Article, periods of unauthorized leaves without pay shall not be counted; however, such leaves shall not constitute a break in service.

C. The Employer shall consider at least the following matters in reviewing a request for sabbatical leave:

1. The purpose of the leave is mutually beneficial to the Employee and the Employer;

2. The nature, length and pertinency of educational course work, research, or other professional/educational activity which the Employee plans to undertake during the sabbatical leave are consistent with the needs of the service;

3. The Employee's absence will not adversely affect the operations of the department; and

4. The Employee's work performance record and seniority (continuous length of service in the applicable governmental jurisdiction).

D. In the event a request for sabbatical leave is denied, the Employee may request and the Employer shall be provided the reasons for denial in writing from the Employer.

E. Employees on sabbatical leave shall be paid an amount equal to one-half of the basic compensation, which the Employee was receiving at the commencement of the leave. Basic compensation shall include any negotiated increase in the schedule as may be provided for in the Agreement. The payments shall be made in accordance with regular pay periods.

F. An Employee granted sabbatical leave may engage in other employment provided the primary purpose for which the leave was granted is met.

G. Before being granted a sabbatical leave, an Employee shall enter into a contract with the Employer, which shall provide for the following:

1. The Employee shall agree to return to work upon termination of sabbatical leave or any other leave which may be granted by the Employer immediately following the sabbatical leave. If the Employee fails to report for work upon termination of sabbatical and/or any other leave granted under this Agreement, the Employee shall be considered to have resigned and shall refund all monies received while on sabbatical leave.

2. Upon return from sabbatical and/or any other leave granted under this Agreement, the Employee shall agree to work in the appropriate department for a period of two (2) continuous years. If the Employee fails to do so, the Employee shall refund all monies received from the Employer while on sabbatical leave; provided,

however, in the event of the death of the Employee, the requirement to refund all monies shall be waived. In the event the Employee is unable to continue employment due to illness or injury, the Employer and the Union, by mutual agreement may shorten the return period.

3. The Employee shall be guaranteed a return to the Employee's or an equivalent position at the expiration of the sabbatical leave and/or any other leave granted under this Agreement. Upon the Employee's return, the Employee shall have the same salary range and step that the Employee had at the time of taking the leave and the Employee's increment date shall be advanced equivalent to the duration of the leave, provided it is not inconsistent with the terms of this Agreement.

4. The Employee shall not accrue any vacation or sick leave credits during the period of sabbatical leave.

5. Any other provisions deemed necessary by the department to be included in the contract.

#### **ARTICLE 34 - LEAVE OF ABSENCE FOR UNION BUSINESS**

A. Any Employee elected or appointed to an office in the Union will, if such office requires the Employee's full time in the exercise and discharge of its duties, be given a leave of absence without pay not to exceed one (1) year. Extension may be granted by the Employer for a period not to exceed twelve (12) months.

B. Any Employee elected or appointed to attend the Biennial State and/or National Union convention shall be given a leave of absence without pay or vacation leave for the duration of the convention including reasonable travel time. The Union shall notify the Employer in writing, not less than thirty (30) days prior to the commencement of the leaves, of the dates of the scheduled convention, the names and departments of the elected or appointed Employees and alternates. In the event an alternate is substituted for another Employee to attend the convention, the Union shall notify the Employer immediately of the substitution. It is agreed that any adjustments in the work schedules necessitated to accommodate the substitution shall not result in overtime for all Employees.

C. Any Employee elected or appointed to attend a Statewide Leadership Conference of the Union may be given a leave of absence without pay or vacation leave for the duration of the conference including reasonable travel time.

D. Unless otherwise provided by law, no Employee on leave of absence without pay shall be entitled to accrue or accumulate vacation allowance, sick leave,

service credit for increments and longevity increases or other rights and benefits for the term of the Employee's leave but the Employee shall not lose seniority for the purpose of determining length of service.

## **ARTICLE 35 - HOLIDAYS**

A. The following days of each year are established as holidays:

New Year's Day, the first day of January  
Dr. Martin Luther King, Jr. Day, the third Monday in January  
Presidents' Day, the third Monday in February  
Prince Jonah Kuhio Kalanianaʻole Day, the twenty-sixth day of March  
Good Friday, the Friday preceding Easter Sunday  
Memorial Day, the last Monday in May  
King Kamehameha I Day, the eleventh day of June  
Independence Day, the fourth day of July  
Admission Day, the third Friday in August  
Labor Day, the first Monday in September  
Veterans' Day, the eleventh day in November  
Thanksgiving Day, the fourth Thursday in November  
Christmas Day, the twenty-fifth day of December

All election days, except primary and special election days, in the county wherein the election is held.

Any day designated by proclamation by the President of the United States or by the Governor as a holiday.

B. Observance of Holidays.

1. Employees whose workdays fall on Monday through Friday during the workweek in which a holiday occurs shall observe such holiday as provided below:

Day Holiday Falls	Day Holiday Observed
Saturday	Friday preceding holiday
Sunday	Monday following holiday
Workday	Workday

2. Employees whose workdays fall on other than Monday through Friday during the workweek in which a holiday occurs shall observe such holiday as provided below:

Day Holiday Falls

Day Holiday Observed

Day off  
Workday

First workday after the day off  
Workday

## ARTICLE 36 - VACATION LEAVE

### A. Earning of Vacation Leave.

1. All Employees shall earn vacation leave at the rate of one and three-quarters (1 3/4) working days for each month of service. For the purpose of this Article, a workday is defined as an eight hour-(8) workday.

2. If such Employees render less than a month of service, their vacation allowance for such month shall be computed as follows:

Actual Days of Service	Working Days of Leave
For 1 to 3	0
For 4 to 6	1/2
For 7 to 9	3/4
For 10 to 12	1
For 13 to 15	1 1/4
For 16 to 18	1 1/2
For 19 or more	1 3/4

The term "actual days of service" shall include paid holidays.

3. Individuals who are employed on a temporary, contractual or substitute basis while on vacation from another position in the State government or any political subdivision of the State shall not earn vacation allowance for such employment.

4. Vacation allowance shall accrue to an Employee while the Employee is on leave with pay unless specifically prohibited by the Agreement.

5. No vacation allowance shall accrue:

a. During the period of any vacation leave or sick leave granted when the employment terminates or is to terminate at the end of such leave.

b. During the period the Employee is on leave without pay, except for the period the Employee is on leave for disability and is being paid Workers' Compensation therefore.

c. During any period of valid suspension which is sustained in the event an appeal is made by the Employee.

d. During any period of unauthorized leave.

e. During any period the Employee is on educational leave.

6. Vacation for an Employee Serving a Provisional Appointment. An Employee serving a provisional appointment shall not be entitled to a vacation with pay. However, a provisional appointee shall be entitled to earn and accrue vacation allowances during the term of the Employee's provisional appointment and if upon the termination of the Employee's provisional appointment the Employee receives probationary or limited term or permanent appointment in the same position, the Employee shall be credited with the allowances earned and accrued during the provisional appointment and if the Employee does not become such limited term, probationary, or regular Employee, the vacation allowance shall be automatically forfeited. It is provided, however, that a regular Employee who receives a promotion through a provisional appointment shall be considered to be a regular Employee and shall continue to earn vacation allowance.

7. Vacation for a Non-regular Employee Serving a Temporary Appointment Outside the List (TAOL). A non-regular Employee serving on a TAOL basis shall not be entitled to a vacation leave with pay. However, whenever the duration of the TAOL is for longer than one (1) year, including any extensions granted for a specific appointment, the non-regular Employee shall be entitled to (a) earn vacation leave beginning with the first month of the second year in accordance with A.1. and A.2., and (b) use the vacation leave accrued in accordance with the provisions of this Article. Whenever a non-regular Employee's TAOL is ended, any vacation leave accrued shall be automatically forfeited.

#### B. Accumulation of Vacation Leave.

1. An Employee may accumulate up to twenty-one (21) days of vacation leave per calendar year until the Employee accumulated the Employee's first forty-two (42) days. Subsequently an Employee may accumulate not more than fifteen (15) days of vacation leave per calendar year, even if the Employee's total accumulated days fall below forty-two (42) days. However, vacation leave in excess of fifteen (15) days per year may be accumulated for good cause when a request for such accumulation is approved by the department head provided such request shall be accompanied by a stipulation that the Employee shall take such excess vacation days at a specified time. If the Employee fails to take this vacation at the time stipulated, the Employee shall forfeit the excess accumulation of vacation leave unless for good reason an extension of time is granted by the department head.

2. Vacation leave shall be administered on a calendar year basis and recorded at the end of each calendar year.



3. Any Employee who is entitled to an annual vacation may accumulate for the succeeding year or years such unused portion of the Employee's vacation allowance as is permitted above, provided that the total accumulation shall not exceed ninety (90) working days at the end of the calendar year. If any recorded accumulation of vacation allowance at the end of any calendar year shall exceed ninety (90) working days, the Employee shall automatically forfeit the unused vacation allowance which is in excess of the allowable ninety (90) working days.

4. Nothing in this Article contained shall be construed to prohibit the taking or to require the forfeiture, of any vacation which is validly granted and the taking of which is commenced on or before the last working day of any calendar year, notwithstanding that the recording of the current accrued vacation allowance for such year on the last day thereof might result in an accumulation of more than ninety (90) working days including the working days of the vacation so granted and then being taken but the period of such vacation shall be regarded for all purposes as if the same had been entirely taken on or before the last day of such calendar year.

5. Whenever the Employee's accumulated vacation credit exceeds ninety (90) working days the Employee shall receive cash payment in lieu of vacation to the extent of the excess if, upon investigation by the Comptroller of the State or the respective county director of finance, it is found that the excess vacation credit resulted from the Employee's inability to be allowed vacation time off because of orders of the Employee's appointing authority; otherwise the Employee shall automatically forfeit the excess.

6. Whenever an Employee is unable to take the Employee's scheduled vacation because of illness, the Employee shall be permitted to reschedule the Employee's vacation; however, if the duration of illness is such that the vacation cannot be rescheduled within the calendar year and to protect against the forfeiture of excess vacation, the Employee shall be permitted to substitute vacation for sick leave or take such excess vacation immediately upon the conclusion of such sick leave.

#### C. Taking Vacation Leave Granted.

1. When a vacation is requested on a proper application by an Employee, it shall be granted and taken at such time or times as the department head may designate; provided, that it shall be as close to the requested period as conditions in the department will permit, and so as to prevent any forfeiture of vacation allowance.

2. When a vacation is granted, it may include, in accordance with the law and at the request of the Employee, all vacation allowance accrued up to the end of the Employee's last full month of service immediately preceding the commencement of the vacation. For non-regular Employees who earn vacation allowance pursuant to A.7., the vacation granted may include, at the request of the Employee, all vacation allowance accrued up to the commencement of the vacation.

3. Whenever an Employee's vacation leave which has been approved on the appropriate leave application form is rescinded, non-refundable travel and lodging expenses incurred by the Employee shall be reimbursed by the Employer.

4. No vacation leave of less than one (1) hour may be granted. However when payment in lieu of vacation is legally permissible, or when the Employees service will not continue at the expiration of the vacation, such payment may include a prorated amount for any fraction of a working day of vacation allowance to which the Employee is entitled.

D. Vacation Charged Only for Working Hours.

1. Employees on vacation shall have charged against their vacation allowances all working hours or fraction to the nearest 1/4 hour thereof which occur during the period of the Employee's vacations.

2. Employees normally working eight hour-(8) days, other than between the hours of 7:45 a.m. and 4:30 p.m. and/or other than between Monday and Friday inclusive, shall have charged against their vacation allowances only those hours or fraction to the nearest 1/4 hour thereof they were scheduled to work or would have worked had they not taken vacations.

E. Priority of Scheduling Vacation Leave. Priority in scheduling annual leave shall be given to Employees on the basis of seniority within the office. The priority shall be rotated in descending order according to seniority to assure that each Employee will receive priority scheduling at least once.

F. Recall from Vacation.

1. An Employee may be recalled to duty before the expiration of any granted vacation when, in the opinion of the department head, the Employee's services are required. In such event the Employee shall be paid for all work performed at the rate of one and one-half (1 1/2) times the Employee's regular rate of pay during such period the Employee is recalled from the Employee's vacation and shall be granted the Employee's unused vacation days at a time mutually agreed upon.

2. An Employee who is summoned during the Employee's vacation to serve as a witness in any judicial proceeding in connection with the duties and responsibilities of the Employee's position on work related matters shall be compensated at one and one-half (1 1/2) times the Employee's regular rate of pay during the scheduled vacation period the Employee is required to serve and the Employee's unused vacation leave shall be rescheduled at a time mutually agreed upon.

3. An Employee who is summoned during the Employee's vacation to serve as a witness or juror in any judicial proceedings, except those which may involve or

arise out of the Employee's outside employment or the Employee's personal business or private affairs shall, if the Employee serves, be permitted to reschedule the Employee's vacation for another mutually agreed upon time.

G. Advance Vacation. Advance vacation shall be granted only where an Employee has exhausted all earned vacation allowance and is detained out of the State of Hawaii for a cause which the Employee establishes to the satisfaction of the department head to be out of the Employee's control. An Employee so detained shall immediately communicate with the department head and request such advance vacation and, if the same is granted, it shall be considered as taken with the express understanding that if such leave is not later earned during the term of employment the unearned portion of the vacation pay so advanced will be repaid, and on demand of the department head to the Employer by the Employee or the Employee's executors and administrators out of the Employee's estate, if the Employee is deceased, or deductions may be made for such unearned portion from any salary due the Employee, or from any monies in the annuity savings fund of the Employee's retirement system of the Employer to the credit of the Employee.

H. Effect of Transfer to Position in Which Vacation Allowance Is Not Earnable. When an Employee is transferred from or otherwise relinquishes one position in which vacation allowance may be earned, and accepts employment in another position in the service of the Employer in which vacation allowance may not be earned, the Employee may be deemed, for purposes of receiving pay in lieu of vacation, to have terminated the Employee's services. But in the event that the Employee is not eligible under the circumstances to receive pay in lieu of vacation, the acceptance of such new employment shall not of itself have the effect of forfeiting any vacation allowance to which the Employee is then entitled. Pay for lapsed vacation in excess of the maximum allowed may be granted only as permitted by law.

I. Pay for Vacation Allowance Upon Separation.

1. Whenever a separation of services takes place, the Employee is to be paid, in accordance with law, for the Employee's vacation allowance either in a lump sum or in the normal manner except as provided in subsection 2.

2. When payment in a lump sum is made, the sum payable for vacation allowance shall be equal to the amount of compensation to which the Employee would be entitled or which the Employee would be allowed during the vacation period if the Employee were permitted to take the Employee's vacation in the normal manner. It is provided that whenever an Employee is discharged for cause the lump sum vacation allowance payable shall be computed on the basis of the Employee's accumulated vacation hours multiplied by the Employee's hourly rate of pay as of the effective date of discharge.

3. However, if the Employee is immediately rehired by the Employer and will continue to earn vacation allowance, such a payment shall not be made.

4. An Employee who, pursuant to the U.S. Universal Military Service and Training Act or other Federal statute is called or ordered and reports either voluntarily or involuntarily for active military duty with a branch of the U.S. Armed Forces shall be deemed to have terminated the Employee's services for the purposes of this Article. The Employee's choice of lump sum payment for the Employee's vacation allowance will not of itself cause the forfeiture of the Employee's unused sick leave credits.

J. In the event that a vacation request is denied by the department head, the Employee may request the Employee be furnished the reasons for the denial in writing.

## **ARTICLE 37 - SICK LEAVE**

### **A. Earning of Sick Leave.**

1. All Employees shall earn sick leave at the rate of one and three-quarters (1 3/4) working days for each month of service. For the purpose of this Article, a workday is defined as an eight hour-(8) workday.

2. If such Employees render less than a month of service, their sick leave allowance for such month shall be computed as follows:

Actual Days of Service	Working Days of Leave
For 1 to 3	0
For 4 to 6	1/2
For 7 to 9	3/4
For 10 to 12	1
For 13 to 15	1 1/4
For 16 to 18	1 1/2
For 19 or more	1 3/4

The term "actual days of service" shall include paid holidays.

3. Individuals who are employed on a temporary, contractual, or substitute basis while on vacation from another position in the State government or any political subdivision of the State shall not earn sick leave allowance for such employment.

4. Except as hereinafter otherwise provided, sick leave allowance shall accrue to an Employee while the Employee is on leave with pay. No sick leave allowance shall accrue:

a. During the period of any vacation leave or sick leave granted when the employment terminates or is to terminate at the end of such leave;

b. During the period the Employee is on leave without pay except for the period the Employee is on leave for disability and is being paid Workers' Compensation therefor;

c. During any period of valid suspension which is sustained in the event an appeal is made by the Employees;

d. During any period of unauthorized leave; or

e. During any period the Employee is on educational or sabbatical leave.

B. Accumulation of Sick Leave.

1. An Employee may accumulate the sick leave the Employee earns. The unused sick leave accumulated shall be credited to the Employee's account for subsequent use in the event of a sickness.

2. Such unused sick leave may be accumulated without limitation, and sick leave shall be administered on a calendar year basis and recorded at the end of each calendar year.

C. Notification of Sickness. Notification of absence on account of sickness shall be given as soon as possible on the first day of absence or if impracticable as soon thereafter as circumstances permit. If, in the opinion of the department head, such notification has not been given in accordance with this Article, such absence may, in the discretion of the department head, be charged to vacation allowance or leave without pay.

D. Application for Sick Leave.

1. Application for sick leave shall be filed on a form prescribed by the Employer or the Employer's designee, within five (5) working days after return to duty; provided, that in the event such Employee dies before that time or before returning to duty, the Employee's executor or administrator or the Employee's department head if the Employee deems it proper may file such application within six (6) months after the Employee's death. Sick leave shall not be granted unless it is provided to the satisfaction of the department head that the Employee's absence from work was necessary because of sickness.

2. The department head shall require the Employee to submit a licensed physician's certificate for absences of five (5) or more consecutive working days to substantiate the fact that the period of absence was due entirely to sickness and that the Employee is physically and/or mentally able to resume the duties of the Employee's

position. The department head may require the Employee to be examined by a physician of said department head's choice provided the department assumes the cost of the physician's services.

3. Absence due to sickness lasting less than one (1) hour shall not be charged to sick leave.

4. Upon application by the Employee, sick leave when granted may include all sick leave allowance as of the last full month of service immediately preceding the return to duty from sick leave, or as much thereof as is needed, to permit the Employee to recover from the Employee's sickness.

E. Sick Leave Charged Only for Working Hours.

1. Employees absent from work on account of sickness, shall have charged against their sick leave allowance all working hours which occurs during such absence.

2. Employees normally working eight hour-(8) days, other than between the hours of 7:45 a.m. and 4:30 p.m. and/or other than between Monday and Friday inclusive, shall have charged against their sick leave allowances only those hours they were scheduled to work or would have worked had they not taken sick leave.

F. Additional Sick Leave with Pay. Additional sick leave with pay, in excess of that which the Employee is entitled to, may be granted with the written approval of the Employer provided, that due consideration shall be given to the length of service of the particular Employee requesting the leave.

G. Use of Cumulative Sick Leave Allowance after Transfer between Departments. When an Employee resigns the Employee's position to accept a position in another department of the Employer as the result of a transfer (including promotion, demotion, or original appointment) or in case of any other movement from one department to another of the Employer, the Employee shall not thereby forfeit any unused accumulated sick leave allowance that the Employee may have to the Employee's credit in the department from which the Employee was transferred or moved. If, after the date of such transfer, the Employee uses any or all of such cumulative sick leave to the Employee's credit the appropriation of the department to which the Employee is transferred shall bear the entire charge thereof. In no event, shall the appropriation of the department from which the Employee was transferred or moved be charged for any cumulative sick leave taken after the date of transfer or movement.

H. Credit for Sick Leave During Vacation. When sickness lasting one or more consecutive working days occurs during a vacation, the period of sickness shall, upon submittal of a licensed physician's certificate or other satisfactory proof of such sickness as deemed necessary by the department head, be charged as sick leave, and

the charge against vacation allowance shall be reduced accordingly. Application for such substitution of sick leave for vacation shall be made within five (5) working days upon return to work.

I. Sick leave shall be allowed for medical, dental, optical, and optometrical examination appointments which the Employee cannot schedule for non-work time.

J. Sick leave shall be allowed for temporary disabilities as defined under the Equal Employment Opportunity Commission Guidelines, Title 29, Chapter XIV, Section 1604, of the Code of Federal Regulations.

K. Physical examinations required by the Employer shall not be charged against an Employee's sick leave.

L. An Employee who is laid off pursuant to Article 9 - Reduction-in-Force, shall retain the Employee's accumulated sick leave credits for the period that the Employee's name remains on the recall list. If the Employee is recalled to work pursuant to Article 9, the Employee shall be credited with all accumulated sick leave credits retained.

## **ARTICLE 38 - FUNERAL LEAVE**

A. Employees covered by this Agreement shall be allowed three (3) working days as funeral leave with pay which shall not be deducted from any other leave to which the Employee may be entitled. Funeral leave shall be granted on such days as designated by the Employee provided they fall within a reasonable period of time after a death in the immediate family.

B. For the purpose of this Article immediate family is defined as: parents, brothers, sisters, spouses, children, parents-in-law, grandparents, grandchildren, or an individual who has become a member of an immediate family through the Hawaiian "Hanai" custom. Provided, however, an individual affected by the "Hanai" relationship shall be entitled to utilize funeral leave only for those members of the individual's immediate family resulting from the "Hanai" relationship.

C. If the death or funeral occurs outside the State of Hawaii, the Employee shall be granted, upon request, a reasonable number of additional days of accumulated vacation leave or leave without pay for travel to attend the funeral, or to make necessary arrangements for a funeral in the State of Hawaii.

## **ARTICLE 39 - LEAVE FOR JURY OR WITNESS DUTY**

A. An Employee covered by the terms of this Agreement, if summoned to serve as a witness or juror in any judicial proceedings except those which may involve or arise out of the Employee's outside employment or the Employee's personal business or private affairs shall, if the Employee serves, be entitled to leave of absence with pay.

B. An Employee who serves as a witness or as a juror, and who receives a fee or mileage allowance shall not suffer the loss of such monies or have it offset against the Employee's salary account.

C. An Employee called to serve as a witness in a case which may involve or arise out of the Employee's outside employment or personal business or private affairs shall not be entitled to leave of absence with pay as provided in paragraph (A) above, provided that the Employee shall be entitled to use the Employee's annual vacation leave or elect to take leave without pay.

D. In the event that an Employee on the evening or midnight shift and/or work schedule other than Monday through Friday is required to serve on a jury, the Employer shall place such an Employee on the day shift if such a shift exists and/or on the Monday through Friday work schedule for the duration of the jury duty. The Union and the Employer agree that whenever such a change is made, adjustments in shift assignments and work schedules of all affected Employees including the Employee serving on jury duty shall not result in any claims for overtime except as provided for in Article 25, B.1., B.2., and B.3.

## **ARTICLE 40 - TIME OFF FOR BLOOD DONATION**

Employees shall be granted a reasonable amount of time off with pay to donate blood to the Blood Bank.

## **ARTICLE 41 - OTHER LEAVES OF ABSENCE**

A. Leave Without Pay to Work at the State Legislature. With the approval of the chief executive, and upon request of a member of the State Legislature, a regular Employee may be granted a leave of absence without pay to render service at the State Legislature. The leave without pay shall be for a duration of no more than twelve (12) months. The Employee shall have return rights as provided in paragraph H.

B. Leave Without Pay to Delay a Reduction-In-Force. A regular Employee may be granted a leave of absence without pay for no more than twelve (12) months in order to delay a planned layoff when the position which the Employee occupies has



been abolished. If the Employee has not been placed at the expiration of the twelve (12) month period, the Employee shall be subject to Article 9, Reduction-In-Force.

C. Leave Without Pay for Employees on Loan to Other Governments or for Government Programs Administered by Private or Public Agencies. Subject to the provisions of section 79-17, Hawaii Revised Statutes, a leave without pay may be granted a regular Employee so that the Employee may be employed by another government on a loan basis by contract. The leave without pay shall not exceed two (2) years. The Employee shall have return rights as provided in paragraph H.

D. Leave Without Pay for Employees Serving Temporary Intergovernmental Assignments. Subject to the provisions of Chapter 83, Hawaii Revised Statutes, Employees on temporary intergovernmental assignments may be granted leaves without pay for up to two (2) years. Upon request by the Employee and upon approval of the director of personnel services, or the director of civil service, or the administrative director of the courts, as applicable, the leave without pay may be extended up to an additional two (2) years. The Employee shall have return rights as provided in paragraph I.

E. Educational Leave Without Pay. An appointing authority may grant a leave without pay to regular Employees for any of the following reasons:

1. To pursue a course of instruction which is related to the Employee's field of work;
2. To engage in research which has a beneficial effect on the skills or knowledge required in the Employee's field of work; or,
3. To improve the Employee's ability and increase the Employee's fitness for public employment.

The duration of the educational leave without pay shall be for no more than twelve (12) months. For good cause, as determined by the appointing authority, educational leave without pay may be extended an additional twelve (12) months. The Employee shall have return rights as provided in paragraph I.

F. Industrial Injury Leave.

1. An Employee may be granted leave without pay not to exceed twelve (12) months, provided the Employee is receiving workers' compensation wage loss replacement benefits.

2. An Employee may also be granted additional periods of leave without pay not to exceed twelve (12) months per additional leave period, provided the Employee is receiving workers' compensation wage loss replacement benefits or provided the Employee's application for retirement is pending determination by the State Retirement System.

G. Leave Without Pay to Work in Certain Appointive Positions.

1. An appointing authority may grant a leave without pay to a regular Employee to render services as a department head, agency head, deputy department head or as a secretary to a department head or a deputy department head.

2. The rights of an Employee who is released from the above appointments are as follows:

a. Upon completion of no more than four (4) years of the leave without pay, reinstatement in the position in which the Employee last held a permanent appointment. In the event the Employee is retained beyond these four (4) years for the transition to a new chief executive's term, but for not more than three (3) months, the Employee shall retain the reinstatement right to the Employee's former civil service position.

b. Following more than four (4) years of leave without pay, reinstatement to the Employee's former position if vacant or placement in a comparable vacant position.

c. Upon reinstatement in the former position or placement in another comparable position, compensation shall be as though the Employee had remained continuously in the position.

H. Other Leaves Without Pay. An appointing authority may grant regular or non-regular Employees leaves without pay for no more than twelve (12) months, for any of the following reasons:

1. To recuperate from physical or mental illnesses; provided, for leaves without pay of five (5) days or more, an Employee shall submit a licensed physician's certificate to substantiate the fact that period of leave without pay was due entirely to sickness and that the Employee is physically and/or mentally able to resume the duties of the Employee's position.

2. Death in the family.

3. To extend an annual vacation leave for travel, rest, or for recreation purposes.

4. To seek political office.

5. Personal business of an emergency nature.

6. Annual periods of temporary cessation of normal operation.

7. Child or pre-natal care.

8. Child adoption leave.

I. Return Rights from a Leave Without Pay. Except as specifically provided otherwise in this Article, Employees granted leaves without pay under this Article shall, upon condition of showing to the satisfaction of the appointing authority that the Employee has fulfilled the purpose of the Employee's leave, shall have the following rights:

1. A regular Employee, upon expiration of the Employee's leave shall be reinstated to the Employee's former position; provided, that if such position has been abolished during the period of such leave, the provisions of Article 9, Reduction-In-Force shall be applicable.

2. A non-regular Employee, upon expiration of the Employee's leave shall have reinstatement rights to the Employee's former position, provided that the status and function of the position remained the same in the Employee's absence. In the event that the Employee cannot be reinstated, the Employee shall be terminated.

3. Failure of an Employee to return to duty at the expiration of the Employee's leave shall be deemed a resignation; provided that if within fifteen (15) days of the expiration of the leave, the Employee furnishes satisfactory reasons to the appointing authority as to why the Employee was unable to return immediately after the expiration of the leave, the Employee shall be entitled to such rights as the Employee had at the expiration of the leave. In the event the appointing authority does not accept the reasons, the issue of the reasonableness of the reasons shall be subject to the provisions of Article 11, Grievance Procedure.

J. Other Rights and Conditions.

1. A regular Employee on an approved leave of absence shall be eligible during the period on such leave for promotional examinations and status of promotional eligible lists under the same conditions as though in active service.

2. An Employee who accepts employment, either in another position under civil service or in conflict with the purpose of the Employee's leave during the leave of absence, shall be deemed to have resigned from the Employee's position from which the leave was granted, effective the date of the appointment to the other position.

K. Unauthorized Leave. Any absence from work which does not meet the requirements for an authorized leave, with or without pay, shall be charged as unauthorized absence from work in lieu of a suspension at the discretion of the appointing authority. Any period of unauthorized absence from work shall not be considered as service rendered.

L. Leave Pending Investigation of Charges.

1. Whenever an investigation of charges against an Employee is pending and the Employee's presence at the work site is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place, the Employee may be placed on a leave of absence without pay pending investigation subject to the following:

a. The Union and the Employee who is placed on the leave without pay pending an investigation shall be given written notice within forty-eight (48) hours after such action is taken. The written notice shall provide an explanation, including available facts, on why the Employee's presence at the work site is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place and the effective date of the leave of absence without pay pending an investigation.

b. The period of leave of absence without pay pending an investigation shall be for such length of time as may be necessary to conclude the investigation, but not exceeding thirty (30) days. In the event the investigation exceeds thirty (30) days, the appointing authority may exercise its options provided in subparagraph L.2.

c. If the Employee who has been placed on leave of absence without pay pending investigation is cleared of all charges or if the charges are dropped or not substantiated, the Employee shall be reinstated without loss of pay and all rights and benefits will be restored as though the Employee had not been on leave of absence without pay pending an investigation.

d. Disciplinary or Discharge Action Resulting from an Investigation of Charges.

1) In the event a suspension is warranted, the Employer may consider any portion of the period of the leave of absence without pay pending an investigation towards fulfilling, in whole or in part, the disciplinary action considered appropriate by the Employer. The Employee shall be reinstated without loss of pay and benefits for any portion of the period of the leave of absence without pay which has not been considered towards fulfilling the disciplinary action.

2) In the event a discharge is warranted, the Employee shall not be granted any back pay or restored with any rights and benefits for the period of the leave of absence without pay pending an investigation.

2. Notwithstanding the foregoing, whenever an investigation of charges against an Employee is pending, the Employer shall have the discretion to:

- a. retain the Employee in active duty status;
- b. place the Employee on leave of absence with pay;
- c. return the Employee to active duty status from leave without pay pending an investigation; or,
- d. reassign the Employee to another work unit or area and in the same or different capacity.

The action shall be for the length of time as may be necessary to conclude the investigation.

## **ARTICLE 42 - LEAVE FOR INDUSTRIAL INJURY**

A. Whenever an Employee who is temporarily exposed to unusually hazardous conditions, or who is a member of a class recognized by the action of repricing to be a class exposed to unusually hazardous conditions, receives personal injury arising out of the unusually hazardous conditions and in the performance of the Employee's duty, the Employee shall be placed on accidental injury leave unless suspended or dismissed for cause, and continued on the payroll of the Employee's respective department at the Employee's full regular monthly salary during the first four (4) months of the Employee's disability and thereafter during the period of the Employee's total disability from work at sixty percent (60%) of the Employee's regular monthly salary, as though the Employee did not sustain an industrial injury. The Employee shall be entitled to all rights and remedies allowed under Chapter 386, Hawaii Revised Statutes, as amended, provided that any salary paid under this section shall be applied on account of any compensation allowed him under Chapter 386, Hawaii Revised Statutes, as amended, or any benefits awarded him under Part III of Chapter 88, Hawaii Revised Statutes, as amended.

B. No accidental injury leave shall be granted for an injury incurred by an Employee by the Employee's wilful intention to injure himself or another or by the Employee's intoxication.

## **ARTICLE 43 - MILITARY LEAVE**

A. Military Leave With Pay.

1. Employee whose appointment is for six (6) months or more shall, while on active duty or during periods of camps of instruction or field maneuvers as members of the Hawaii national guard, air national guard, naval militia, organized reserves, including the officers' reserve corps and the enlisted reserve corps, under call of the President of the United States or the governor of the State, be placed on leave with pay status for a

period not exceeding fifteen (15) working days in any calendar year, except as provided in subparagraph A.2.

2. If an Employee is called to active duty or required to report for camp training or field maneuvers by official military orders a second time within a calendar year, the Employee may elect to use up to fifteen (15) working days of the succeeding calendar year; provided that the Employee's entitlement to the working days advanced shall be canceled from the succeeding calendar year, and the Employee shall so agree in writing. The Employee who is advanced leave shall be required to reimburse the Employer an amount equivalent to the days advanced in the event the Employee leaves government employment prior to completion of a year's service in the succeeding year from which leave was advanced, except in the case of death of the Employee.

B. Military Leave Without Pay.

1. The following Employees shall be entitled to military leave without pay for service in the United States Armed Forces:

- a. Employees serving initial probational appointments.
- b. Regular Employees serving permanent or new probational appointments.
- c. Regular Employees serving temporary appointments and who have not forfeited their rights to the position in which they last held permanent appointment.
- d. Exempt Employees serving other than temporary appointments.

2. The duration of the military leave without pay shall be for no more than five (5) years.

3. Upon conclusion of the military leave without pay, Employees shall have reemployment rights in accordance with Chapter 43 of Title 38 of the United States Code.

4. Replacements for Employees on Military Leave Without Pay.

a. In filling a position which became vacant by military leave without pay, the appointing authority may appoint a replacement Employee and shall inform the replacement the status of the replacement's employment and the provisions of this Agreement relating to military leaves without pay.

b. A replacement employed in the position from which military leave was granted shall be displaced so that the position may be filled again by the former Employee returning to government employment. Replacement

Employees with regular status shall be returned to their former positions or other comparable positions deemed appropriate by the director of personnel services. In the event there are no such positions, the replacement Employees shall be subject to Article 9, Reduction-In-Force.

#### **ARTICLE 44 - WORKING CONDITION DIFFERENTIAL**

A. The Director of Personnel Services, in consultation with the Union, shall review and determine which Employees regularly or temporarily assigned to the Closed Intensive Supervision Unit (CISU) at Hawaii State Hospital will be entitled to a differential because of unusual or unique working conditions. Such Employees shall be paid in addition to their basic compensation, a differential of forty cents (\$.40) per hour for each hour of work performed at such location. Effective July 1, 1995, the hourly differential shall increase to fifty cents (\$.50).

B. Whenever a patient:

1. is ordered by the courts pursuant to Chapters 704 and 706, HRS, to be in the custody of the Director of Health, or

2. is an adult transferred from a correctional institution under Chapter 334, HRS, or

3. has been recommended for placement into the CISU at Hawaii State Hospital and such placement has been approved by the CISU unit chief or the clinical director, and is placed in a hospital's isolation room, or, in the case of Hawaii State Hospital, in a ward other than the CISU, all Employees assigned to the isolation room or the ward shall be entitled to a differential of forty cents (\$.40) per hour for each hour of work performed while on such assignment, until such times as the patient is removed from such location. Effective July 1, 1995, the hourly differential shall increase to fifty cents (\$.50).

C. For the purpose of granting differential pay for a portion of an hour, the Employee will be paid twenty cents (\$.20) for one-half (1/2) hour or less of work and forty cents (\$.40) for more than one-half (1/2) hour of work. Effective July 1, 1995, the differential for a portion of an hour shall increase to twenty-five cents (\$.25).

D. Employees assigned to correctional facilities shall be entitled to a differential because of unusual or unique working conditions. Such Employees shall be paid, in addition to their basic compensation, a differential of thirty cents (\$.30) per hour for each hour of work performed at such location. Effective July 1, 1995, the hourly differential shall increase to fifty cents (\$.50).

E. In administering paragraph D above, and for purposes of granting differential pay for a portion of an hour, the Employee will be paid fifteen cents (\$.15) for

one-half (1/2) hour or less of work and thirty cents (\$.30) for more than one-half (1/2) hour of work. Effective July 1, 1995, the differential for a portion of an hour shall increase to twenty-five cents (\$.25).

F. The Director of Personnel Services, in consultation with the Union, may terminate the differentials provided by this section upon reclassification of an affected Employee's position to a higher classification because of the unusual or unique working conditions which qualified the Employee for the differential or because such conditions cease to exist.

## **ARTICLE 45 - TRAVEL**

A. Applicable rules, ordinances, and policies. Except as modified by this Article, Chapter 3-10, Hawaii Administrative Rules, in the case of the State, and applicable rules, regulations, ordinances, or policies, in the case of the county jurisdictions, shall remain applicable for the duration of this Agreement.

B. Travel occurring on same island. When Employees are required to work in locations which make it impracticable and undesirable to return home at the end of a workday, with prior approval one of the following shall apply:

1. If commercial lodging is utilized, the Employee shall be paid a travel allowance pursuant to Paragraph D.

2. If commercial lodging is not available, such as in mountainous or other remote areas, the Employer shall provide cabins or tentage and needed camping supplies and equipment. At the Employee's option, the Employer shall also provide adequate stores of food or pay each Employee twenty dollars (\$20) per day in lieu thereof.

C. Off-island travel to mountainous or other remote areas.

1. Whenever Employees are required to travel on official business to mountainous or other remote areas where no commercial lodging is available, the Employer shall provide cabins, tentage, or shall arrange for lodging within available facilities, and shall provide adequate stores of food or pay each Employee twenty dollars (\$20) per day in lieu thereof.

2. Notwithstanding the provisions of this paragraph, a mutual agreement may be arranged among Employees with the Employer to provide for per diem expenses in lieu of this paragraph.

D. Intra-state travel.



1. When an Employee is required to travel on official business to another island the Employee shall be provided with a per diem of eighty dollars (\$80) per 24-hour day.

2. In the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods, with the quarter-day periods measured from midnight. In computing the amount of per diem, the official travel time shall begin thirty (30) minutes before the scheduled flight departure time and shall end upon the return to the Employee's home airport. This computation shall be applicable to all trips, except one-day trips (leaving and returning on the same day). In the case of one-day trips, commencing January 1, 1998, the Employee shall be entitled to a meal allowance of twenty dollars (\$20) in lieu of per diem.

(Note: The January 1, 1998, effective date was subsequently changed to June 30, 1999 through a memorandum of agreement executed between the Employer and Union).

3. When an authorized leave is added before or after the official travel, the per diem amount shall be the same as that which would have been allowed if the authorized leave had not been taken.

E. Out-of-state travel.

1. When Employees are required to travel on official business to areas outside the State of Hawaii, they shall be provided a per diem of one hundred thirty dollars (\$130) per 24-hour day.

2. In the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods, with the quarter-day periods measured from midnight. In computing the amount of per diem, the official travel time shall begin no later than 24 hours prior to the time the Employee is to be at work at the out-of-state destination. The Employee shall be scheduled to arrive at the out-of-state destination (applicable airport) at least ten (10) hours before reporting for duty. The official travel time shall end upon the Employee's return to the Employee's home airport. All calculations will be based on Hawaiian Standard Time.

3. When an authorized leave is added before or after the official travel, the per diem amount shall be the same as that which would have been allowed if the authorized leave had not been taken.

F. Reimbursement for commercial lodging expenses in excess of the lodging allowance.

Included in the per diem rate designated in paragraphs D and E shall be a daily allowance for commercial lodging. For intra-state travel, this lodging allowance shall be fifty dollars (\$50) per 24-hour day. For out-of-state travel, this allowance shall be eighty-five dollars (\$85) per 24-hour day.

Whenever an Employee's commercial lodging cost exceeds the applicable lodging allowance, the Employee shall be entitled to an additional amount added to the Employee's per diem. This amount shall equal to the difference of the actual daily cost of commercial lodging and the applicable allowance provided herein, multiplied by the number of days spent on commercial lodging. Unless otherwise waived by the Employer request for commercial lodging expenses in excess of the lodging allowance shall be made in advance of the Employee's trip. Effective July 1, 1990, the daily allowance for commercial lodging shall be increased to fifty dollars (\$50) for intra-state travel and eighty-five dollars (\$85) for out-of-state travel.

G. Advanced per diem and Reimbursements.

Whenever possible, an Employee shall receive advanced per diem for official travel. The Employer shall reimburse Employees who request reimbursement for excess lodging expenses as soon as possible.

H. Furnished Meals and Lodging.

When lodging or meals are provided at no cost to the Employees, the Employer shall continue its existing practices in adjusting the per diem amounts. However, the per diem allowance provided herein shall not be adjusted when meals are included in conference programs.

I. Mileage reimbursement.

1. The term "vehicles" as used in this paragraph only applies to automobiles, trucks, vans, or buses.

2. Employees who are authorized to use their private vehicles to carry out their duties and responsibilities shall be reimbursed at the rate of thirty-seven cents (\$.37) for each mile traveled for business purposes.

3. Employees who are presently being provided automobile allowance for the required use of their private vehicles in the performance of their official duties shall continue receiving such allowances, provided that the amount of the allowance may be modified through a separate memorandum of agreement mutually agreed to by the Union and the Employer concerned. However, allowances shall be terminated when the Employer no longer requires the Employees to use their private vehicles in the performance of their official duties.

4. Mileage reimbursement to and from home to work site shall be allowed for all call back work and for overtime work on scheduled days off and holidays, except for Employees whose normal work hours include the holiday.

## ARTICLE 46 – PARKING

### A. Parking Rates.

1. This paragraph shall apply only to Employees under the following conditions:

a. The Employee is required to provide a personal vehicle for work purposes as a condition of employment as determined by the Employer; and

b. The Employee parks at a parking facility under the jurisdiction of the State Department of Accounting and General Services or the City and County of Honolulu Building Department.

2. Parking rates for Employees covered by this paragraph shall be as follows:

#### STATE OF HAWAII

##### Island of Oahu

Covered Parking	\$12.50/month
Uncovered Parking	7.50/month

##### Neighbor Islands

Covered Parking	\$ 7.50/month
Uncovered Parking	5.00/month

#### CITY AND COUNTY OF HONOLULU

All Parking	\$ 7.50/month
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B. It is understood and agreed that Employees who are required to provide a personal automobile as a condition of employment and who are parking in commercial parking facilities shall be offered a parking assignment in a DAGS or City Building Department facility, as applicable, and as space becomes available. Until such time that the Employer can offer such parking assignment, the Employer agrees to reimburse each Employee a monthly sum as follows:

## STATE OF HAWAII

Island of Oahu	
Covered Parking	\$12.50/month
Uncovered Parking	7.50/month
Neighbor Islands	
Covered Parking	\$ 7.50/month
Uncovered Parking	5.00/month

## CITY AND COUNTY OF HONOLULU

All Parking	\$ 7.50/month
-------------	---------------

Any Employee who declines an offer to park in a DAGS or City Building Department facility shall not be entitled to the reimbursement.

C. It is further understood and agreed that Employees who are required to provide a personal automobile as a condition of employment and who presently are not charged for parking shall continue to receive free parking, unless their conditions of employment are changed.

## ARTICLE 47 - MISCELLANEOUS

A. The Employer agrees to furnish a copy of the Agreement together with any letter, which may be furnished by the Union outlining its collective bargaining services and membership information to all new Employees of the bargaining unit.

B. The Employer shall either reimburse Employees for the reasonable value, or pay for the actual cost of repair, of personal clothing, prescription glasses, and watches which are maliciously damaged or destroyed by another person or animal while the Employee is acting in the discharge of the Employee's duties and without negligence.

The Employer's liability shall be limited to fifty dollars (\$50) for watches.

C. The Employer shall provide the Union upon request, not more than twice each year, lists showing the names of all Employees, their classification titles, their department, and the most recent dates of continuous hire in the jurisdiction.

## **ARTICLE 48 - PSYCHIATRISTS**

Notwithstanding any other provisions of this Agreement to the contrary, policies and practices relating to wages, hours, and other terms and conditions of employment of Psychiatrists which are mutually agreed to in writing by the Employer and the Union shall be incorporated herein by reference; except that the duration of such mutual agreement shall be in accordance with Article 53, Duration, contained herein.

## **ARTICLE 49 - NO STRIKE OR LOCKOUT**

A. The Union agrees that during the life of this Agreement the Union, its agents or its bargaining unit members will not authorize, instigate, aid or engage in any work stoppage, slow down, sickout, refusal to work, picketing or strike against the Employer.

B. The Employer agrees that during the life of this Agreement, there will be no lockout.

C. Any violation of this Article by the Union or the Employer shall not be subject to Article 11, Grievance Procedure, and either party may pursue such legal remedies as provided by law.

D. Disciplinary action taken against an Employee for violation of this Article shall be subject to Article 11, Grievance Procedure.

## **ARTICLE 50 – DRUG AND ALCOHOL TESTING**

The Union and Employer have reached an agreement on alcohol and controlled substance testing. Part one of the agreement pertains to alcohol and controlled substance testing for all Employees based on “reasonable suspicion.” Part two of the agreement pertains to “random” alcohol and controlled substance testing for certain identified health, safety and public trust (HSPT) Employees. The agreement has an attached list of identified HSPT positions.

The agreement is intended to keep the workplace free from the hazards related to the use of alcohol and controlled substances by the testing program. Employees are expected to report to work in a physical and mental condition consistent with this agreement which enables them to perform their duties in a safe and productive manner. Employees subject to alcohol and controlled substance tests and who are subject to disciplinary action shall be afforded “due process” as provided in the alcohol and controlled substance testing agreement and applicable provisions of the collective bargaining agreement.

All health, safety and public trust employees will receive a copy of the “random” alcohol

and controlled substance agreement from the Employer. All other Employees will receive a copy of the "reasonable suspicion" alcohol and controlled substance agreement from the Employer. Employees may also request a copy of the alcohol and controlled substance agreement from the Union.

NOTE: The agreement reflects a "two strikes and you're out" disciplinary action schedule for confirmed positive tests for alcohol and controlled substance that was negotiated through a memorandum of agreement and ratified by Employees in the bargaining unit.

## **ARTICLE 51 - SALARIES**

A. Employees who are receiving a shortage differential shall have their compensation adjusted by provisions contained in a separate memorandum of agreement.

B. The salary schedule in effect on June 30, 1999 shall be designated as Exhibit A and shall remain applicable through July 1, 2001.

C. Subject to the approval of the respective legislative bodies and effective July 2, 2001:

1. The salary schedule designated as Exhibit A shall be amended to reflect a four percent (4%) increase and such amended schedule shall be redesignated as Exhibit B.

2. Following C.1. above, Employees shall be placed on the corresponding pay range and step of Exhibit B, provided that Employees whose basic rate of pay on July 1, 2001, falls between two steps or exceeds the maximum step of their pay range shall receive a four percent (4%) increase.

3. Employees not administratively assigned to the salary schedule shall receive a four percent (4%) increase.

D. Subject to the approval of the respective legislative bodies and effective July 1, 2002:

1. The salary schedule designated as Exhibit B shall be amended to reflect a five percent (5%) increase and such amended schedule shall be redesignated as Exhibit C.

2. Following D.1 above, Employees shall be placed on the corresponding pay range and step of Exhibit C, provided that Employees whose basic rate of pay on June 30, 2002, falls between two steps or exceeds the maximum step of their pay range

shall receive a five percent (5%) increase.

3. Employees not administratively assigned to the salary schedule shall receive a five percent (5%) pay increase.

E. Notwithstanding any provision to the contrary, the “shredding” plan and step movements shall be implemented as follows:

1. Employees Eligible for Shredding from 7/2/01 to 6/30/03:

a. Mass shred on 7/2/01. Effective 7/2/01, all BU 13 Employees shall be redistributed and placed on steps within the respective pay ranges of the salary schedule based on their years of service earned prior to 7/2/01 and the years of service required in the shred table.

b. Individual Shred During the Period 7/2/01 – 6/30/03. During the period 7/2/01 – 6/30/03, any BU 13 Employee who meets the minimum years of service required for the next step on the shred table shall receive a shred adjustment to that step on the Employee’s service anniversary date.

c. Creditable service for shredding includes all BU 13 service including service since FY 96-97 when shredding began through 6/30/03, even though shred adjustments take effect on 7/2/01 without retroactive payment.

d. Shred table. Shred adjustments shall correspond to the number of years of continuous creditable service as shown below and shall be known as the shred table.

<u>STEP</u>	<u>YEARS</u>	<u>STEP</u>	<u>YEARS</u>
C	0<2	H	12<15
D	2<4	I	15<18
E	4<6	J	18<21
F	6<9	K	21<24
G	9<12	L	24 or more

e. Any Employee who receives a shred adjustment under 1.a. or 1.b. shall not be eligible to a step movement under 2.a. or 2.b. for the term of the contract.

2. Employees Eligible for Step Movement from 7/1/99 – 6/30/03. Employees who are not eligible for shredding under 1.a. or 1.b. shall be eligible for step movements during the term of the contract as follows:

a. Employees who became eligible for step movements from 7/1/99 to 7/1/01 shall receive their step movements on 7/2/01 on a deferred basis without any retroactive payment.

a. Step movements during the period 7/2/01 to 6/30/03 shall be based on creditable service, including service from 7/1/99 to 7/1/01, even though payments for step movements due during that period may have been deferred to 7/2/01.

F. Step movement provisions as contained in Article 14, Compensation Adjustments of this Agreement shall be continued in successor Agreements, unless modified or terminated by mutual consent of the parties. It is provided that the costs of step movements in such successor Agreements shall be treated as "cost items" as defined in Section 89-2, HRS, and included in the costs of collective bargaining and submitted to the respective legislative bodies for approval as required in subsection 89-10(b), HRS.

## **ARTICLE 52 - HEALTH FUND**

Subject to the applicable provisions of Chapter 87, HRS, as amended, the Employer shall pay the following monthly contributions to the Hawaii Public Employees Health Fund effective July 1, 1997:

A. Sixty percent (60%) of the monthly premium for the Health Fund's medical plan for each employee-beneficiary or for each employee-beneficiary with a dependent-beneficiary enrolled in a health benefits plan covering medical, hospital and surgical benefits only.

B. Sixty percent (60%) of the monthly premium for the Health Fund's adult dental plan for each employee-beneficiary or for each employee-beneficiary with a spouse enrolled in the adult dental plan.

C. Sixty percent (60%) of the monthly premium for the Health Fund's prescription drug plan for each employee-beneficiary or for each employee-beneficiary with a dependent-beneficiary enrolled in the prescription drug plan.

D. Sixty percent (60%) of the monthly premium for the Health Fund's vision care plan for each employee-beneficiary or for each employee-beneficiary with a dependent-beneficiary enrolled in the vision care plan.

E. One hundred percent (100%) of the monthly premium for the Health Fund's children's dental plan for each child of an employee-beneficiary who has not attained the age of nineteen (19) and who is enrolled in the children's dental plan.



F. One hundred percent (100%) of the monthly premium for the Health Fund's group life insurance plan for each employee-beneficiary enrolled in the group life insurance plan.

For purposes of this Article only, the following definitions and formulas shall apply:

A. "Monthly premium" - the total amount of insurance premium for an active employee by type of enrollment payable on a monthly basis to the insurance carrier under a contract with the Hawaii Public Employees Health Fund.

B. "Health Fund's medical plan or adult dental plan or prescription drug plan or vision care plan or children's dental plan or group life insurance plan" - shall be that employee benefit plan as determined by the Health Fund's Board of Trustees with the largest number of active Employee enrollments as of December 31 of the previous fiscal year.

C. Whenever the Employer's monthly contribution to the Hawaii Public Employees Health Fund is less than one hundred percent (100%) of the monthly premium amount, such monthly contribution shall be rounded to the nearest cent as provided below:

1. When rounding to the nearest cent results in an even amount, such even amount shall be the Employer's monthly contribution. For example:

a.  $\$11.397 = \$11.40 = \$11.40$  (Employer's monthly contribution)

b.  $\$11.382 = \$11.38 = \$11.38$  (Employer's monthly contribution)

2. When rounding to the nearest cent results in an odd amount, round down to the next even amount, and such even amount shall be the Employer's monthly contribution. For example:

a.  $\$11.392 = \$11.39 = \$11.38$  (Employer's monthly contribution)

b.  $\$11.386 = \$11.39 = \$11.38$  (Employer's monthly contribution)

### **ARTICLE 53 - ENTIRETY CLAUSE**

Except as modified below, the Employer and the Union agree that the terms and provisions herein contained constitute the entire Agreement between the parties and supersede all previous communications, representations or agreements, either verbal or written, between the parties hereto with respect to the subject matter herein. The Employer and the Union agree that all negotiable items have been discussed during the negotiations leading to this Agreement and, therefore, agree that negotiations will not be reopened on any item during the life of this Agreement except as provided in Article 54,

Duration, or by mutual consent.

#### **ARTICLE 54 - DURATION**

A. This Agreement shall become effective as of July 1, 1999 and shall remain in effect to and including June 30, 2003. It shall be renewed thereafter with respect to the subject matter covered, in accordance with statutes unless either party gives written notice to the other party of its desire to amend, modify or terminate the Agreement, and such written notice is given no later than October 15, 2001. After such written notice is given, the parties shall exchange their specific written proposals, if any, no later than November 15, 2001. Negotiations for a new Agreement shall commence on a mutually agreeable date following the exchange of written proposals, as applicable.

IN WITNESS WHEREOF, the parties hereto, by their authorized representatives,  
have executed this Agreement.

STATE OF HAWAII \_\_\_\_\_ Allan Tanigawa

By: Benjamin J. Cayetano  
\_\_\_\_\_  
Its Governor

Davis Yogi  
\_\_\_\_\_

CITY AND COUNTY OF HONOLULU

By: Jeremy Harris  
\_\_\_\_\_  
Its Mayor

Cheryl Okuma-Sepe  
\_\_\_\_\_

COUNTY OF HAWAI'I

By: Harry Kim  
\_\_\_\_\_  
Its Mayor

Michael Ben  
\_\_\_\_\_

COUNTY OF MAUI

By: James Apana  
\_\_\_\_\_  
Its Mayor

Raymond Kokubun  
\_\_\_\_\_

COUNTY OF KAUAI

By: Maryanne W. Kusaka  
\_\_\_\_\_  
Its Mayor

HAWAI'I GOVERNMENT EMPLOYEES  
ASSOCIATION, AFSCME, LOCAL 152,  
AFL-CIO

By: Russell K. Okata  
\_\_\_\_\_  
Its Executive Director

Thomas Oi, Chair  
\_\_\_\_\_

James Anderson  
\_\_\_\_\_

Stephanie Araki  
\_\_\_\_\_

Irvin Cohen  
\_\_\_\_\_

Susan Goya  
\_\_\_\_\_

Emery G.K. Henderson  
\_\_\_\_\_

Clarice H.F. Kam  
\_\_\_\_\_

Chester Lao  
\_\_\_\_\_

Daynette Morikawa

\_\_\_\_\_

Keith K. Nagai

\_\_\_\_\_

Richard H.K. Onishi

\_\_\_\_\_

Peter S. Oshiro

\_\_\_\_\_

Roger Thoren

\_\_\_\_\_